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SEAS AT RISK



# Joint NGO recommendations on Baltic Sea fishing opportunities for 2023

## 1. INTRODUCTION

In October 2022, EU fisheries ministers will agree on fishing opportunities in the Baltic Sea for 2023. As the deadline to end overfishing by 2020 at the latest as legally prescribed by Article 2(2) of the Common Fisheries Policy (CFP)<sup>1</sup> has passed, all fishing limits must be in line with sustainable exploitation rates.

Last year, the EU AGRIFISH Council set four out of ten<sup>2</sup> Total Allowable Catches (TACs) in the Baltic Sea exceeding the best available scientific advice for 2022, thereby contravening the CFP deadline. The European Commission proposals exceeded scientific advice for the four TACs - eastern Baltic cod, western Baltic herring, salmon in the main Baltic basin and the Gulf of Finland salmon. Fisheries ministers further increased some catch limits above what was proposed by the European Commission<sup>3</sup>

However, behind all of the numbers, the real problem is that scientific advice and the models underpinning it are not delivering ecosystem-based management options. Setting TAC based on single species advice omits the need to consider sub-populations at risk and misses consideration of size and age distribution. ICES can produce more comprehensive advice but the decision-makers must request this and until they do, they must set TACs with much greater caution.

<sup>1</sup> REGULATION (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy

<sup>2</sup> Eastern Baltic cod, western Baltic herring, salmon in the main basin and salmon in the Gulf of Finland.

<sup>3</sup> Central Baltic herring, western Baltic cod, Baltic sprat, Baltic plaice and salmon in the Gulf of Finland. Although fisheries ministers agreed on higher TACs for sprat and central Baltic herring and plaice, compared to the European Commission's proposal, those TACs have been set below the maximum threshold advised by ICES.

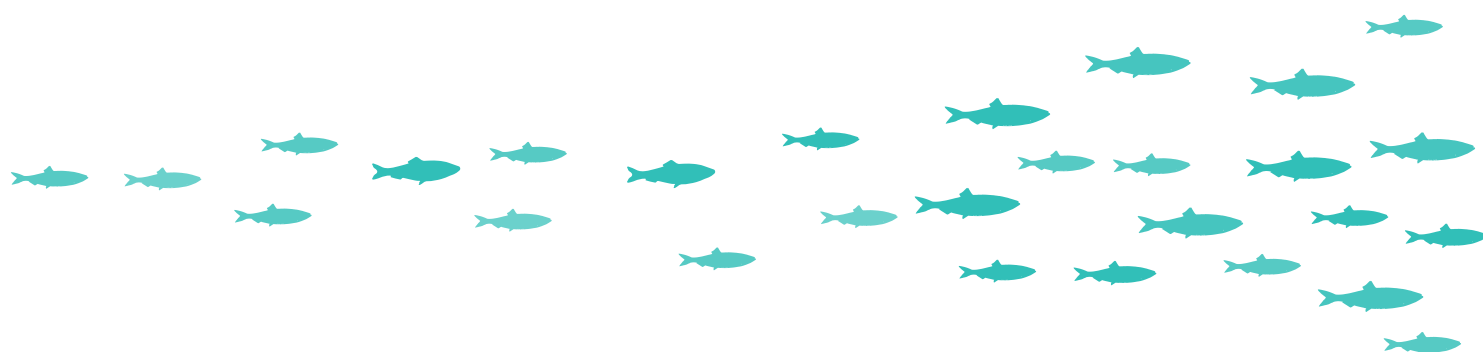
The results of the holistic assessment by the Baltic Marine Environment Protection Commission (Helsinki Commission, HELCOM) on the state of the Baltic Sea reflect that several action areas lag behind in implementation, despite the deadline for achieving Good Environmental Status (GES) of the marine environment by 2020 according to the Marine Strategy Framework Directive (MSFD) and by 2021 according to the Baltic Sea Action Plan (BSAP)<sup>4</sup>. The European Green Deal<sup>5</sup> commits the EU to tackle the impacts of climate change and protecting and restoring biodiversity. Specifically, the EU Biodiversity Strategy<sup>6</sup> commits to ecosystem-based management, a transition to more selective and less damaging fishing methods, and to set all fishing limits at or below Maximum Sustainable Yield (MSY) levels, to restore ocean health. The Action Plan to conserve fisheries resources and protect marine ecosystems noted as a deliverable in the Biodiversity Strategy must become a crucial strategy to improve implementation of, and fill obvious gaps in, EU policies to put European fisheries management on a path where the full ecosystem and climate impacts of fishing are properly measured and mitigated.

**The Commission and Ministers must reconsider the current approach by requesting new and different scientific advice that, for example, adequately reflects ecosystem considerations, safeguards vulnerable sub-populations and prioritises a healthy size and age distribution, or we will face more stocks faltering. The solution here and now is to take a more precautionary approach by staying in the lower bounds of the TAC advice ranges.**

The October AGRIFISH Council provides the Commission and fisheries ministers with a clear and attainable opportunity to deliver on their commitments in the updated HELCOM Baltic Sea Action Plan and the Our Baltic Declaration from 2020 initiated by Commissioner Virginijus Sinkevičius, as well as on their legal obligation according to the CFP to end overfishing. It is also an opportunity to begin to realise the ambition of the Biodiversity Strategy.

The European Ombudsman has confirmed that fishing opportunities documents contain 'environmental information' within the meaning of the Aarhus Convention, and made recommendations to improve the transparency of the Council when setting fishing opportunities. The Ombudsman further confirmed a finding of maladministration in April 2020,<sup>7</sup> expressing disappointment that Council decision-making contravened key democratic and transparency standards. We therefore urge the Commission and decision-makers to make the decision-making process of setting fishing opportunities fully transparent.

The following text outlines the joint NGO recommendations on Baltic Sea fishing opportunities for 2023 in the context of environmental regulations, EU fisheries legislation, scientific advice on catch limits, and the sharing of stocks with third countries.

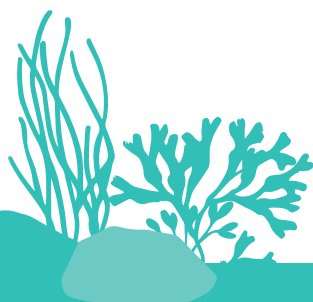


<sup>4</sup> HELCOM (2018): State of the Baltic Sea – Second HELCOM holistic assessment 2011-2016. Baltic Sea Environment Proceedings 155

<sup>5</sup> The European Green Deal Communication from the Commission to the European Parliament, The Council, the European Economic and Social Committee of the Regions. The European Green Deal

<sup>6</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions EU Biodiversity Strategy for 2030 - Bringing Nature Back into Our Lives

<sup>7</sup> <https://www.ombudsman.europa.eu/en/decision/en/127388>



**Overall, we urge the European Commission to propose, and fisheries ministers to agree on, fishing opportunities in accordance with the following recommendations:**

- Set TACs not exceeding scientifically advised levels based on the MSY Approach for all stocks for which MSY-based reference points are available;
- Where MSY-based reference points are not available, set TACs not exceeding the Precautionary Approach catch limits advised by the International Council for the Exploration of the Sea (ICES);
- Set TACs not exceeding the  $F_{MSY}$  point value specified in the Baltic Sea Multi-Annual Plan (MAP).

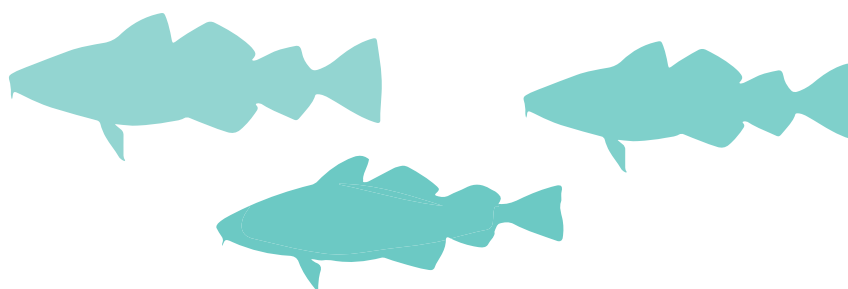
**While also taking the following factors into consideration:**

- Set TACs at more precautionary, i.e. lower levels and in line with an ecosystem-based approach to fisheries management (along with additional spatial and temporal measures) to accommodate stock-specific uncertainties (catch misreporting, discards, assessment bias etc.), interspecies dynamics (e.g. sprat - cod) and low recruitment trends of individual stocks, whilst also considering other pressures (pollution, eutrophication, climate change) on the Baltic ecosystem that are likely to affect the abundance of fish populations. Good examples of this approach are Fisheries Council decisions from October 2021 on the central Baltic herring and sprat TACs for 2022, set below the maximum threshold advised by the scientists;
- Fully utilise the precautionary approach in relation to mixed fisheries, protecting the most vulnerable stock(s), either by closing areas with high mixing or by substantially reducing quotas to safeguard sub-populations;
- Consider that control with onboard observers was significantly reduced in 2021 due to the Covid-19 pandemic, and discard rates are subject to high uncertainty;
- Consider the lack of implementation of the Landing Obligation (LO) when setting TACs,<sup>8,9</sup> and require remote electronic monitoring (such as cameras) or onboard observers for all vessels above 12 m and for medium and high-risk vessels below 12 m;
- Set TACs sufficiently below ICES catch advice to ensure illegal, unreported discarding does not lead to actual catches exceeding ICES catch advice.

**Additionally, we call for improved transparency of negotiations and decisions as follows:**

- Provide transparent calculations for TACs based on the ICES advice on fishing opportunities;
- Improve transparency by making publicly available any proposals subsequent to the official Commission proposal, including Commission non-papers as well as Council Working Party and AGRIFISH Council documents and minutes.

Finally, the European Parliament, as a co-legislator of the CFP basic regulation and of the Baltic Sea MAP, should be vigilant that no infringements of the rules for which it is responsible occur, and that the overarching objective of ending overfishing in the EU is fully achieved.



<sup>8</sup> ClientEarth (2020). *Setting Total Allowable Catches (TACs) in the context of the Landing Obligation*. July 2020

<sup>9</sup> Borges, Lisa (2020). *The unintended impact of the European discard ban*. *ICES Journal of Marine Science, ICES Journal of Marine Science, Volume 78, Issue 1: 134-141*, <https://doi.org/10.1093/icesjms/fsaa200>



## 2. SUMMARY OF NGO RECOMMENDATIONS ON BALTIC SEA TACS AND ADDITIONAL MEASURES FOR 2022

TAC by area-species	TAC set for 2022	ICES advice basis	ICES stock catch advice for 2023 (tonnes) <sup>10</sup>	ICES advice adjusted for - Third Country shares - Stock & TAC area mixing	NGO recommendations on TACs and additional measures for 2023
<b>Eastern Baltic cod (SDs 25-32)<sup>11</sup></b>	595 t (by-catch only)	Precautionary Approach	0 t	n/a <sup>12</sup>	<b>0 t</b> <ul style="list-style-type: none"> <li>- Increase monitoring and control on all vessels using active gears in all areas but prioritised in cod concentration areas, combining both REM and traditional controls.</li> <li>- Introduce additional measures to avoid and minimise cod bycatches in any fisheries using active gears.</li> <li>- Consider a full closure of the known spawning areas of EBC during the spawning period.<sup>13</sup></li> <li>- Continue with recreational measures agreed for 2022.<sup>14</sup></li> </ul>

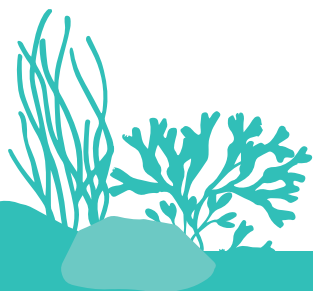
<sup>10</sup> For Baltic and Gulf of Finland salmon, we have interpreted ICES advice as the 'Commercial Landings' (the reported projected landings) of individual fish. This is the 'Total Commercial Sea Catch' with deductions for the unreported, misreported (i.e., IUU) and unwanted catch (i.e. seal damage and discards), as estimated by ICES.

<sup>11</sup> ICES. 2022. Cod (*Gadus morhua*) in subdivisions 24–32, eastern Baltic stock (eastern Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, cod.27.24–32, <https://doi.org/10.17895/ices.advice.19447874>

<sup>12</sup> Deduct 5% Russian share from the advice for eastern Baltic cod. Deduct catches of eastern Baltic cod in SD 24 (i.e., those caught in the western Baltic cod TAC area). Not applicable with zero catch advice.

<sup>13</sup> See for example HELCOM 2019 "Essential fish habitats in the Baltic Sea" Meeting of the continuation of the project for Baltic-wide assessment of coastal fish communities in support of an ecosystem-based management (FISH-PRO III).

<sup>14</sup> COUNCIL REGULATION (EU) 2021/1888 of 27 October 2021 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2021/92 as regards certain fishing opportunities in other waters



<b>Western Baltic cod (SDs 22-24)<sup>15</sup></b>	489 t (by-catch only)	MSY Approach	943 t <sup>16</sup>  (this applies to the sum of commercial and recreational catches)	n/a	<b>0 t</b> - All fisheries targeting cod must be stopped in 2023, both for commercial and recreational fishing. Our recommendation is based on WGBFAS recommending a zero catch advice - All spawning areas must continue to be fully protected and closed from fishing activities in the relevant spawning period. <sup>17</sup> The closure must apply to both commercial and recreational fishers. - Increase at-sea monitoring and control on all vessels using active gears in all areas but prioritised in cod concentration areas, combining both REM and traditional controls. - Introduce additional measures to avoid and minimise cod bycatches in active demersal flatfish fisheries.
<b>Baltic sprat (SDs 22-32)<sup>18</sup></b>	251,943 t	EU MAP ( $F_{MSY}$ )	249,237 t	Deduct 10.08% Russian share.	<b>≤ 224,114 t</b> - Consider setting the TAC in the lower $F_{MSY}$ range (165,227 - 224,114 t). Our recommendation is based on F being above $F_{MSY}$ , misreporting issues and the need to consider interspecies dynamics (see ICES 2022) <sup>19</sup> . - If spatial management and measures to account for species interactions are not put in place (e.g. by moving the fishery further north), the TAC should be set at $F_{lower} \leq 165,227$ , to maximise food availability for cod in SDs 25-26. - Increase control, enforcement, onboard monitoring and sampling of landings to ensure that the misreporting of sprat as herring does not continue.

<sup>15</sup> ICES. 2022. Cod (*Gadus morhua*) in subdivisions 22-24, western Baltic stock (western Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, cod.27.22-24. <https://doi.org/10.17895/ices.advice.19447868>

<sup>16</sup> Observe that the WGBFAS recommended a zero catch advice, please visit page 132 in the WGBFAS report: ICES. 2022. Baltic Fisheries Assessment Working Group (WGBFAS). ICES Scientific Reports. 4:44. 659 pp. <http://doi.org/10.17895/ices.pub.19793014>

<sup>17</sup> Area 22-23: 01. January - 31. March; Area 24: 01. April - 31. August.

<sup>18</sup> ICES. 2022. Sprat (*Sprattus sprattus*) in Subdivisions 22-32 (Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, spr.27.22-32. <https://doi.org/10.17895/ices.advice.19453856>

<sup>19</sup> ICES. 2022. Sprat (*Sprattus sprattus*) in Subdivisions 22-32 (Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, spr.27.22-32. <https://doi.org/10.17895/ices.advice.19453856>

<b>Western Baltic herring (SDs 22-24)<sup>20</sup></b>	788 t (by-catch only)	MSY Approach	0 t	n/a	<b>0 t</b> - Implement additional area and/or time restrictions on the herring fishery in the North Sea and SDs 20-21, as catches of WBSS in the North Sea will be inevitable. <sup>21</sup>
<b>Central Baltic herring (SDs 25-27, 28.2, 29 &amp; 32)<sup>22</sup></b>	53,653 t	EU MAP ( $F_{MSY}$ )	95,643	Deduct 9.5% Russian share. Add 794 t for Gulf of Riga herring to be taken in SD 28.2 and deduct 3,211 t for Central Baltic herring to be taken in the Gulf of Riga (SD 28.1).	<b>≤ 61,051 t</b> - Consider setting the TAC at the $F_{MSY}$ lower point value or below, based on “ <i>quality of the assessment</i> ” and “ <i>issues relevant for the advice</i> ” (see ICES 2022) <sup>23</sup> . - Increase control, enforcement, onboard monitoring and sampling of landings to ensure that the misreporting of sprat as herring does not occur.
<b>Gulf of Riga herring (SD 28.1)<sup>24</sup></b>	47,697 t	EU MAP ( $F_{MSY}$ )	43,226 t	Deduct 794 t for Gulf of Riga herring to be taken in SD 28.2 and add 3,211 t for Central Baltic herring to be taken in the Gulf of Riga (SD 28.1).	<b>≤ 45,643 t</b>
<b>Gulf of Bothnia herring (SDs 30-31)<sup>25</sup></b>	111,345 t	EU MAP ( $F_{MSY}$ )	102,719 t	n/a	<b>≤ 80,047 t</b> - The TAC should set at or below the $F_{MSY\ lower}$ 80,047 t since the SSB has a decreasing trend since 2010 and only the $F_{MSY\ lower}$ will keep the stock above $MSY_{Btrigger}$ in 2024. <sup>26</sup>

<sup>20</sup> ICES. 2022. Herring (*Clupea harengus*) in subdivisions 20-24, spring spawners (Skagerrak, Kattegat, and western Baltic). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.20-24, <https://doi.org/10.17895/ices.advice.19447964>.

<sup>21</sup> ICES. 2022. Herring (*Clupea harengus*) in subdivisions 20-24, spring spawners (Skagerrak, Kattegat, and western Baltic). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.20-24, <https://doi.org/10.17895/ices.advice.19447964>.

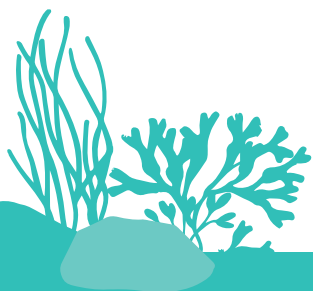
<sup>22</sup> ICES. 2022. Herring (*Clupea harengus*) in subdivisions 25-29 and 32, excluding the Gulf of Riga (central Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2021, her.27.25-2932, <https://doi.org/10.17895/ices.advice.19447970>.

<sup>23</sup> ICES. 2022. Herring (*Clupea harengus*) in subdivisions 25-29 and 32, excluding the Gulf of Riga (central Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2021, her.27.25-2932, <https://doi.org/10.17895/ices.advice.19447970>.

<sup>24</sup> ICES. 2022. Herring (*Clupea harengus*) in Subdivision 28.1 (Gulf of Riga). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.28, <https://doi.org/10.17895/ices.advice.19447976>.

<sup>25</sup> ICES. 2022. Herring (*Clupea harengus*) in Subdivisions 30 and 31 (Gulf of Bothnia). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.3031, <https://doi.org/10.17895/ices.advice.1944797>.

<sup>26</sup> ICES. 2022. Herring (*Clupea harengus*) in Subdivisions 30 and 31 (Gulf of Bothnia). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.3031, <https://doi.org/10.17895/ices.advice.1944797> see issues relevant for the advice, page 3



<b>Baltic plaice (SDs 22-32)</b> <sup>27 28</sup>	9,050 t	<i>Plaice SDs 21-23:</i> MSY approach  <i>Plaice SDs 24-32:</i> MSY approach	11,914 t  4,633 t	Deduct estimated catches in SD 21. Apply the same method as detailed in the ICES advice. <sup>29</sup>	<b>≤ 13,315 t</b> - Install mandatory REM on all vessels in the targeted flatfish fishery because of the high volumes of cod bycatches. - Consider a TAC lower than 13,315 t to safeguard and help recover eastern and western Baltic cod, which are taken as bycatch in the flatfish fisheries. - Consider a spatial closure for vessels operating with bottom towed gear in SDs 22, 24, 25 and 26 where eastern Baltic cod is most abundant to avoid bycatch of the stock, for which a zero TAC is recommended. <sup>30</sup> - New selective fishing gears designed for flatfish must be used to avoid cod bycatch in the flatfish fisheries. <sup>31,32</sup>
<b>Main Basin salmon 22-31</b> <sup>33</sup>	63,811	MSY approach	0 in mixed stock fisheries at sea  No more than 75,000 salmon in northern coastal fisheries (AUs 1-3) during spawning migration in Gulf of Bothnia and Åland Sea	Deduct 1.9% Russian share.	<b>0 in mixed stock fisheries at sea</b> <b>≤ 50,000 salmon (see details below)</b> - Targeted fishing for salmon with mixed stock origin in the main basin areas should be closed (commercial and recreational). - TAC should be set at no more than 50,000 salmon, and active and targeted salmon fishing can only take place in SDs 29 (north) - 31 within 4 nautical miles from the coast. <sup>34</sup> - Urgently develop a new proposal for TAC setting and start development of a new multiannual management plan.

<sup>27</sup> ICES. 2022. Plaice (*Pleuronectes platessa*) in subdivisions 24-32 (Baltic Sea, excluding the Sound and Belt Seas). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, ple.27.24-32. <https://doi.org/10.17895/ices.advice.19453583>

<sup>28</sup> ICES. 2022. Plaice (*Pleuronectes platessa*) in subdivisions 21-23 (Kattegat, Belt Seas, and the Sound). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, ple.27.21-23. <https://doi.org/10.17895/ices.advice.19453550>

<sup>29</sup> ICES. 2022. Plaice (*Pleuronectes platessa*) in subdivisions 21-23 (Kattegat, Belt Seas, and the Sound). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, ple.27.21-23. <https://doi.org/10.17895/ices.advice.19453550> See Table 4

<sup>30</sup> ICES (2020). Report on eastern Baltic cod bycatch in non-targeted fisheries, mixing with western Baltic cod in SD24, and stock situation in SDs 27-32 (Ad hoc). ICES Scientific Reports. 1:76. 69 pp

<sup>31</sup> ICES (2019). EU request for further information on the distribution and unavoidable bycatches of eastern Baltic cod. In Report of the ICES Advisory Committee, 2019. ICES Advice 2019, sr.2019.24.

<sup>32</sup> ICES (2020). Report on eastern Baltic cod bycatch in non-targeted fisheries, mixing with western Baltic cod in SD24, and stock situation in SDs 27-32 (Ad hoc). ICES Scientific Reports. 1:76. 69 pp.

<sup>33</sup> ICES. 2022. Salmon (*Salmo salar*) in subdivisions 22-31 (Baltic Sea, excluding the Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.22-31. <https://doi.org/10.17895/ices.advice.19932815>

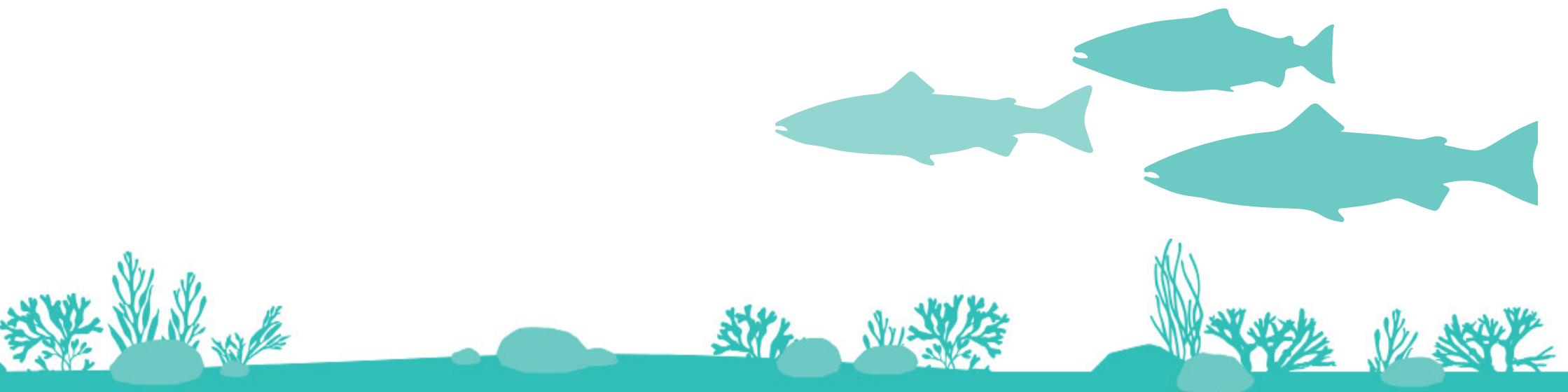
<sup>34</sup> Based on ICES headline advice and the scenario 8, Table 2 p.7

<b>Gulf of Finland salmon (SD 32)<sup>35</sup></b>	9,455	Precautionary Approach	11,800 salmon	Apply the 86% of reported landings (ICES advice p.4) <sup>36</sup>  Deduct 9.3% Russian share.	<b>≤ 9,204 salmon</b> <ul style="list-style-type: none"> <li>- No wild salmon should be targeted in the Gulf of Finland (GoF). Salmon in the GoF can be targeted only by fishing gear that is proven to do no harm to released wild salmon bycatch.</li> <li>- Salmon from GoF mix with main basin salmon stocks at sea. The mixed stock sea fishery must be stopped to safeguard the GoF stocks.</li> <li>- Urgently develop a new proposal for TAC setting and in the medium term, develop a new multiannual management plan.<sup>33</sup></li> </ul>
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Note: Pending a formal sharing agreement between the EU and Russia, the assumed Russian shares are those used under the former International Baltic Sea Fisheries Commission (IBSFC).

<sup>35</sup> ICES. 2022. Salmon (*Salmo salar*) in Subdivision 32 (Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.32, <https://doi.org/10.17895/ices.advice.19933346>.

<sup>36</sup> ICES. 2022. Salmon (*Salmo salar*) in Subdivision 32 (Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.32, <https://doi.org/10.17895/ices.advice.19933346>. Page 4, Catch scenarios





### 3. RECOMMENDATIONS ON BALTIC SEA TACS AND ADDITIONAL MEASURES FOR 2023

#### Eastern Baltic cod in SDs 25-32



**We recommend that the TAC for 2023 should be set at zero both in subdivisions (SDs) 25-32 and in SD 24** based on the “ICES advice on fishing opportunities”, which states that “ICES advises that when the precautionary approach is applied, there should be zero catch in 2023. This advice applies to all catches from the stock in subdivisions 24–32”.<sup>37</sup>

As Baltic cod is a top predator and important to the entire Baltic Sea ecosystem, we recommend developing an ecosystem-based restoration plan to bring Baltic cod back to good environmental status in line with EU marine legislation and the EU 2030 biodiversity strategy,<sup>38</sup> taking into account interspecies considerations and all threats to the stock, including eutrophication, pollution, climate change, habitat loss as well as the general state of the Baltic Sea ecosystem.<sup>39</sup>

For 2021 the Council agreed to the Commission proposal for a reduced ‘bycatch TAC’ and the continued suspension of certain targeted fishing activities for eastern Baltic cod, as well as further recreational and spatial measures.<sup>40</sup> Nevertheless, catches of eastern Baltic cod in non-directed fisheries, combined with a lack of adequate at-sea catch monitoring to ensure effective control, enforcement and compliance with ‘bycatch TACs’ remain a serious concern. Previous NGO communications have recommended prerequisites for the use of bycatch TACs.<sup>41</sup> These conditionalities have not been met in the case of eastern Baltic cod.

Importantly in the case of eastern Baltic cod, we note that the ICES advice for 2021 states “At the current low productivity the stock is estimated to remain below  $B_{lim}$  in the medium term, even with no fishing. Furthermore, fishing at any level will target the remaining few commercial-sized ( $\geq 35$  cm) cod; this will deteriorate the stock structure further and reduce its reproductive potential.”<sup>42</sup> This means that any bycatches of eastern Baltic cod are a detriment to the stock. We are concerned about the higher volumes of cod bycatch in the trawl (active demersal) fishery,<sup>43</sup> as well as the uncertainty surrounding the extent of continued discarding, as noted by the ICES expert group on Baltic Sea Fisheries (WGBFAS): “it would be important to investigate the extent of discarding of cod in the demersal fishery for flatfishes that is still carried out by a few countries”.<sup>44</sup>

ICES expresses concern regarding the bycatch rate and stresses that the cod is no longer a target species but caught in the flatfish fisheries, where the best gears available to reduce cod bycatch are not in use.<sup>45</sup> It is therefore of critical importance that the best available gears should be immediately mandated in all flatfish fisheries with the risk of cod bycatch.

To recover and safeguard Baltic fish stocks, including eastern Baltic cod, setting a zero TAC must be combined with additional conservation measures.

**If the Commission and Council decide to continue the measures agreed by the Council for eastern Baltic cod for 2022,<sup>46</sup> then we strongly recommend the following additional measures for 2023:**

- Mandate the use of REM on vessels using active gears in all areas, combined with traditional controls;

<sup>37</sup> ICES. 2022. Cod (*Gadus morhua*) in subdivisions 24–32, eastern Baltic stock (eastern Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, cod.27.24–32, <https://doi.org/10.17895/ices.advice.19447874>

<sup>38</sup> COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS. EU Biodiversity Strategy for 2030 Bringing nature back into our lives.

<sup>39</sup> HELCOM (2018): State of the Baltic Sea – Second HELCOM holistic assessment 2011-2016. *Baltic Sea Environment Proceedings* 155.

<sup>40</sup> COUNCIL REGULATION (EU) 2021/1888 of 27 October 2021 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2021/92 as regards certain fishing opportunities in other waters

<sup>41</sup> Joint NGO paper (2019). Recovering fish stocks and fully implementing the Landing Obligation. See pages 5-6.

<sup>42</sup> ICES. 2022. Cod (*Gadus morhua*) in subdivisions 24–32, eastern Baltic stock (eastern Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, cod.27.24–32, <https://doi.org/10.17895/ices.advice.19447874>

<sup>43</sup> ICES (2019). EU request for further information on the distribution and unavoidable bycatches of eastern Baltic cod. In Report of the ICES Advisory Committee, 2019. ICES Advice 2019, sr.2019.24

<sup>44</sup> ICES. 2022. Baltic Fisheries Assessment Working Group (WGBFAS).

ICES Scientific Reports. 4:44. 659 pp. <http://doi.org/10.17895/ices.pub.19793014> See page 48

<sup>45</sup> ICES. 2022. Cod (*Gadus morhua*) in subdivisions 24–32, eastern Baltic stock (eastern Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, cod.27.24–32, <https://doi.org/10.17895/ices.advice.19447874>

<sup>46</sup> COUNCIL REGULATION (EU) 2021/1888 of 27 October 2021 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2021/92 as regards certain fishing opportunities in other waters

- Mandate the use of more selective fishing gears to avoid cod bycatch in the flatfish fishery (see ICES);<sup>47,48</sup>
- Ensure that any exemptions from the LO are subject to increased at-sea monitoring and control;
- Introduce a spatial closure to cover all spawning areas in SD 25 and additionally a spatial closure of demersal towed gear in SD 26<sup>49</sup>, which would have limited implications for EU flatfish fisheries, while protecting a substantial part of the eastern Baltic cod stock.<sup>50</sup>

TAC setting needs to implement an ecosystem-based approach to fisheries management as required by the CFP. Prioritisation of interspecies and food web considerations are key to achieving GES as required by MSFD.

#### In addition, we urge you to:

- Consider the implications for cod when setting the TAC for plaice and the time and area plaice is fished<sup>51</sup> (see recommendation below);
- Prioritise the need to safeguard cod when setting the central Baltic herring and sprat TACs<sup>52</sup> as well as considering the temporal and spatial allocation of the fishing for sprat (see recommendations below);
- Implement Article 17 of the CFP and prioritise access to quota of other species to vessels operating with low impact static gears that have a lower cod bycatch rate.

## Western Baltic cod in SDs 22-24



### We recommend that all commercial fisheries targeting western Baltic cod remain closed in 2023 and that recreational fishing targeting western Baltic cod is prohibited.

We recommend zero TAC for all targeted cod fishing. The ICES expert group on the Baltic Sea, the WGBFAS, is of the same opinion due to high uncertainty and the fact that the WBC is below  $B_{lim}$  and has been so for several years. The management considerations from the expert group reads as follows:

#### "2.3.9 Management considerations

*The stock is presently at a historic low level and even if the incoming year class (2021) is estimated larger compared to the 2017-2020-year classes, the stock is still very low. As the size and fate of the 2021-year class is still very uncertain, given that only a few data points are available (Q4 survey in fall 2021 and Q1 survey in 2022, pound net survey), the working group recommends zero catches to protect this single incoming year class.*

*In 2021 the recreational fishery was fishing close to 50% of the total catch.*<sup>53</sup>

Furthermore, ICES also emphasises the uncertainties and that the estimated SSB "may be an overestimate", and that "The probability of SSB being below  $B_{lim}$  in 2024 is likely to be higher than the 31% estimated in Table 2" and "Thus, the risk associated to the MSY advice is high."<sup>54</sup> In light of this, and emphasising the precautionary approach and considering the very poor condition of the stock, the fishing opportunity for the WBC should be zero for all targeted fisheries.

However, if a small bycatch quota is set, it must be lower than 489 t (2022 bycatch TAC), and REM must be mandatory for all vessels using active gears in SDs 22, 23, and 24. Furthermore, Member States must allocate any bycatch quota according to Art. 17 of the CFP; to such fisheries that use the best available low impact gear to minimise

<sup>47</sup> ICES (2019). EU request for further information on the distribution and unavoidable bycatches of eastern Baltic cod. In Report of the ICES Advisory Committee, 2019. ICES Advice 2019, sr.2019.24

<sup>48</sup> ICES (2020). Report on eastern Baltic cod bycatch in non-targeted fisheries, mixing with western Baltic cod in SD24, and stock situation in SDs 27-32 (Ad hoc). ICES Scientific Reports. 1:76. 69 pp.

<sup>49</sup> ICES (2018). Request by Poland to review the effectiveness of current conservation measures in place for the Baltic cod.

<sup>50</sup> ICES (2019). EU request for further information on the distribution and unavoidable bycatches of eastern Baltic cod. In Report of the ICES Advisory Committee, 2019. ICES Advice 2019, sr.2019.24

<sup>51</sup> ICES (2020). Report on eastern Baltic cod bycatch in non-targeted fisheries, mixing with western Baltic cod in SD24, and stock situation in SDs 27-32 (Ad hoc). ICES Scientific Reports. 1:76. 69 pp.

<sup>52</sup> ICES. 2022. Sprat (*Sprattus sprattus*) in Subdivisions 22-32 (Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, spr.27.22-32. <https://doi.org/10.17895/ices.advice.19453856>

<sup>53</sup> ICES. 2022. Baltic Fisheries Assessment Working Group (WGBFAS). ICES Scientific Reports. 4:44. 659 pp. <http://doi.org/10.17895/ices.pub.19793014> See page 132

<sup>54</sup> ICES. 2022. Cod (*Gadus morhua*) in subdivisions 22–24, western Baltic stock (western Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, cod.27.22–24. <https://doi.org/10.17895/ices.advice.19447868> See page 3

bycatch of non-target species and habitat damage.<sup>55</sup> This would also deliver on the EU Biodiversity Strategy and Green Deal.

According to ICES, recreational fisheries constitute 46% of all cod catches.<sup>56</sup> Additional measures should be adopted, such as mandatory catch and release rules for anglers. Gear restrictions (e.g. mesh size) for recreational fishing using gillnets, should be adopted in order to avoid bycatch. Additional measures such as closed areas for recreational fisheries should be considered.

All spawning areas must continue to be fully protected and closed from fishing activities in the relevant spawning periods. We suggest the periods are extended to cover the period when the cod aggregate before they spawn. We suggest SDs 22-23: 01. January - 31. March; SD 24: 01. April - 31. August. The closure must apply to both commercial and recreational fishers.

SD 23 (the Sound between DK and SE) is the only area with any decent cod population and is therefore considered as the last refuge of cod in the Baltic Sea. Incidentally, it is the only area that is not fished by trawlers. A transitional plan to phase out bottom trawling in the Baltic Sea must be planned in order to rebuild the cod populations, restore the health of the whole ecosystem, and secure a viable future for fishers. We suggest to begin with introducing a permanent trawl free area in ICES SD 22 as from the 1. January 2023. SD 22 is a key essential habitat area for both juvenile and adult cod.<sup>57</sup>

## Baltic Sea sprat in SDs 22-32



**The TAC for 2023 should not exceed 224,114 tonnes ( $F_{MSY}$ ). We recommend that the TAC should be set in the lower F range, i.e. between  $F_{MSY\ lower}$  (165,227 tonnes) and  $F_{MSY}$  (224,114 tonnes).** The TAC of 224,111 tonnes is based on ICES advice of  $F_{MSY}$  (249,237 tonnes). The lower TAC of 165,227 tonnes is based on the ICES  $F_{MSY\ lower}$  figure (183,794 tonnes). For both we have deducted from the ICES advised figures an assumed Russian share of 10.08%.<sup>58</sup>

This recommendation takes into account an ecosystem-based approach to fisheries management, considering dynamics between the stocks of eastern Baltic cod and sprat as noted in the ICES advice.<sup>59</sup> In its Ecosystem Overview – Baltic Sea Ecoregion, ICES explains: “Many species and habitats of the Baltic Sea are not in good condition, according to recent assessments. This affects food web functionality, reduces the resilience and resistance against further environmental changes, and diminishes prospects for socioeconomic benefits, including fishing opportunities.”<sup>60</sup> More precaution is needed while managing pelagic stocks in a disturbed Baltic Sea ecosystem, thus using the lower range of  $F_{MSY}$  is justified.

**We further recommend restrictions on the sprat fishery in SDs 25-26 to redistribute the sprat fishery to the northern areas (SDs 27-29 & 32) to improve food availability for cod.** This is in accordance with “issues relevant for the advice”, where ICES states: “Sprat are an important forage species for Baltic cod, and multispecies interactions should be considered when managing the sprat fishery”.<sup>61</sup>

In addition, we note that there is evidence that Baltic pelagic fisheries misreported official catches, with sprat

<sup>55</sup> Art. 17 of the CFP: When allocating the fishing opportunities available to them, as referred to in Article 16, Member States shall use transparent and objective criteria including those of an environmental, social and economic nature. The criteria to be used may include, inter alia, the impact of fishing on the environment, the history of compliance, the contribution to the local economy and historic catch levels. Within the fishing opportunities allocated to them, Member States shall endeavour to provide incentives to fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage.

<sup>56</sup> We note that according to the ICES advice from May 31 2022: “The current management includes trade-offs between commercial and recreational fisheries, but ICES is not in a position to provide catch options separately for commercial and recreational fisheries because the catch advice for the stock is so low that it is not possible to partition the catches” while the recommended catch level applies to both commercial and recreational catches. In the same advice document, it is stated that “In 2021, the recreational catches included in the stock assessment constituted 46% of the total catches”.

<sup>57</sup> Støttrup et al. 2019 *Essential Fish Habitats for commercially important marine species in the inner Danish waters* DTU Aqua

<sup>58</sup> Based on the 2009 TACs sharing agreement between the EU and Russia. However, we note that ICES estimates the Russian quota in 2021 as 43,400 tonnes – which was 14.7% of the TAC. This highlights the discrepancy between the sharing agreement and the actual catches made by each party.

<sup>59</sup> ICES. 2022. Sprat (*Sprattus sprattus*) in Subdivisions 22-32 (Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, spr.27.22-32. <https://doi.org/10.17895/ices.advice.19453856>

<sup>60</sup> ICES. 2021. Baltic Sea Ecoregion – Ecosystem overview. In Report of the ICES Advisory Committee, 2021. ICES Advice 2021, Section 4.1. <https://doi.org/10.17895/ices.advice.9437> See page 3

<sup>61</sup> ICES. 2022. Sprat (*Sprattus sprattus*) in Subdivisions 22-32 (Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, spr.27.22-32. <https://doi.org/10.17895/ices.advice.19453856> See page 3

catches regularly recorded as herring, or even flounder according to the latest advice.<sup>62,63</sup> This means catches of sprat might be higher than those officially reported. When data are uncertain even more precaution is needed in fisheries management – following the precautionary approach as defined in the CFP. **We further suggest that a significant increase in control, enforcement, onboard monitoring and sampling of landings is required to ensure that misreporting ceases.**

## Western Baltic Spring Spawning (WBSS) herring in SDs 22-24



**We recommend that the TAC for 2023 should be set at zero, in accordance with the ICES advice.** The previous five years in a row ICES has advised a zero-catch based on the MSY approach.

**We recommend adjusting the TAC setting procedure for both North Sea Autumn Spawners (NSAS) and WBSS herring, in such a way that minimizes catches of the WBSS stock.** We note that the Agreed Record of Fisheries Consultations between the United Kingdom, Norway, and the European Union<sup>64</sup> establishes a working group with a mandate to examine the management of herring in the North Sea and Skagerrak/Kattegat. Furthermore, the EU-Norway agreement (2021)<sup>65</sup> “noted that it was agreed that this working group should start their work in 2021, and make recommendations for management models for the management of herring in both the North Sea and Skagerrak/Kattegat, where NSAS herring mix with WBSS herring stocks. The working group should assess the current practice of setting separate TACs to cover by-catches in other fisheries.” We fully support joint international efforts involving the EU, the UK and Norway to establish a trilateral working group on the NSAS and Skagerrak/Kattegat herring management with consideration of unavoidable catches of WBSS herring.

The SSB of the WBSS herring stock is below  $B_{lim}$  and has been so since 2007. Recruitment has been low since the mid-2000s and at a historic low for the previous five years. There were no catch scenarios that would rebuild the stock above  $B_{lim}$  by 2024.<sup>66</sup>

According to Article 5 of the Baltic Sea MAP, further remedial measures including the suspension of fishing activity shall be taken to ensure a rapid return of the stock concerned to levels above the level capable of producing MSY, when scientific advice indicates that the spawning stock biomass is below  $B_{lim}$ , which is the case for WBSS.

ICES states in “issues relevant for the advice”: “This stock is caught across three different management areas, and recovery will be impaired if catches of this stock are not minimized in all areas. Based on agreed catches for 2022 and assumptions on stock mixing, it is predicted that around 80% of the total WBSS catches will be taken in Division 4.a in 2022. For the other two areas, catch shares in 2022 are predicted to be around 10% for subdivisions 20–21 and 10% for subdivisions 22–24.

*The catch of WBSS in the North Sea in recent years has been substantial but variable. The expected catches of WBSS in 2022 will be larger in the North Sea than in subdivisions 20-24. Without additional area and seasonal restrictions on the herring fishery in the North Sea in 2023, the catch of WBSS in the North Sea could be of a similar magnitude to previous years (estimated at 5688 t based on the average over the 2019–2021 period). ICES assumes in the forecast that fishery in the eastern part of the North Sea will continue even though there is likely to be a considerable catch of WBSS for which a zero catch is advised by ICES.”<sup>67</sup> **We therefore recommend, in accordance with ICES advice, that additional area and/or time restrictions on the herring fishery are considered in the North Sea and in SDs 20-21.***

<sup>62</sup> <https://www.fishsec.org/2019/09/17/pelagic-trawlers-report-false-catch-figures-and-undermine-sustainable-management/>

<sup>63</sup> ICES. 2022. Sprat (*Sprattus sprattus*) in Subdivisions 22-32 (Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, spr.27.22-32. <https://doi.org/10.17895/ices.advice.19453856> See page 3

<sup>64</sup> Agreed record of fisheries consultations between the European Union, Norway and the United Kingdom for 2021. 16 March 2021

<sup>65</sup> AGREED RECORD OF CONCLUSIONS OF FISHERIES CONSULTATIONS BETWEEN NORWAY AND THE EUROPEAN UNION ON THE REGULATION OF FISHERIES IN SKAGERRAK AND KATTEGAT FOR 2021 16 MARCH 2021

<sup>66</sup> ICES. 2022. Herring (*Clupea harengus*) in subdivisions 20-24, spring spawners (Skagerrak, Kattegat, and western Baltic). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.20-24. <https://doi.org/10.17895/ices.advice.19447964>.

<sup>67</sup> ICES. 2022. Herring (*Clupea harengus*) in subdivisions 20-24, spring spawners (Skagerrak, Kattegat, and western Baltic). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.20-24. <https://doi.org/10.17895/ices.advice.19447964>.

## Central Baltic Sea (excluding Gulf of Riga) herring in SDs 25-29 & 32



**The TAC for 2023 should not exceed 61,051 tonnes ( $F_{MSY\ lower}$ ). We recommend that the TAC should be set at the  $F_{MSY\ lower}$  point value or consider setting a TAC even below.** The TAC range (61,051 - 84,140 tonnes) is based on ICES  $F_{MSY}$  advice (95,643 tonnes). The lower TAC recommendation of 61,051 tonnes is based on the ICES  $F_{lower}$  figure (70,130 tonnes). From both ICES figures we have deducted an assumed 9.5% Russian share, and then added 794 tonnes for Gulf of Riga herring taken in SD 28.2 and deducted 3,211 tonnes for Central Baltic herring taken in Gulf of Riga (SD 28.1).

Our recommendation of  $F_{MSY\ lower}$  is based on the fact that the biomass is still below  $B_{trigger}$  and fishing pressure is still well above  $F_{MSY}$ . ICES information on stock developments over time reads as follows: *"The 2019 year class appears to be above recent recruitment estimates. There has been no other strong recruitment since 2015, resulting in a low number of older ages and a reliance on a single year class contributing to the spawning stock."*<sup>68</sup> However, there are uncertainties in the strength of the 2019 year class, according to the 'Quality of the assessment'. It is stated that the increase in catch advice mainly depends on this specific year class, which is described as uncertain. We recommend the use of precaution, and await the development of this year class.

As explained in our recommendations on sprat in SDs 22-32, more precaution is needed while managing pelagic stocks in a disturbed Baltic Sea ecosystem, and when the data on catches are uncertain (i.e., due to the misreporting of sprat as herring).<sup>69</sup> Using the lower range of  $F_{MSY}$  is therefore appropriate, and this has also been supported by scientific studies by SLU Aqua in 2022<sup>70</sup> and has been proposed as a needed measure by the Swedish Agency for Marine and Water management.<sup>71</sup>

## Gulf of Riga herring in SD 28.1



**We recommend that the TAC for 2023 should not exceed 45,643 tonnes.** This is based on the ICES advice of  $F_{MSY}$  (43,226 tonnes)<sup>72</sup>, from which we deduct 794 tonnes for Gulf of Riga herring taken in SD 28.2 and add 3,211 tonnes for Central Baltic herring taken in the Gulf of Riga (28.1).

## Gulf of Bothnia herring in SDs 30-31



**The TAC for 2023 should not exceed 80,047 tonnes ( $F_{MSY\ lower}$ ).** We recommend that the TAC should be set at  $F_{MSY\ lower}$  (80,047) due to the decrease in SSB and the decreased weight-at-age of the larger herring.<sup>73</sup> According to ICES, in issues relevant for the advice *"Spawning stock biomass has a decreasing trend since 2010 and in 2022 is estimated to be close to MSY  $B_{trigger}$ . Out of the EU MAP scenarios, only  $F_{MSY\ lower}$  will keep the stock above MSY  $B_{trigger}$  in 2024."* Thus, a TAC should be set low to make sure SSB stays above  $B_{trigger}$  and this has also been supported by scientific studies by SLU Aqua in 2022<sup>74</sup> and has been proposed as a needed measure by the Swedish Agency for Marine and Water management.<sup>75</sup>

*Mean weight-at-age has been at low levels for 15 years, and decreased even further in 2021. The present low state of the body condition of larger herring has not previously been observed in the time series.*<sup>76</sup> It is thus clearly stated that only the  $F_{MSY\ lower}$  will secure the SSB to sustainable levels in 2024 (MSY  $B_{trigger}$ ).

<sup>68</sup> ICES. 2022. Herring (*Clupea harengus*) in subdivisions 25–29 and 32, excluding the Gulf of Riga (central Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2021, her.27.25–2932. <https://doi.org/10.17895/ices.advice.19447970>

<sup>69</sup> ICES. 2022. Herring (*Clupea harengus*) in subdivisions 25–29 and 32, excluding the Gulf of Riga (central Baltic Sea). In Report of the ICES Advisory Committee, 2022. ICES Advice 2021, her.27.25–2932. <https://doi.org/10.17895/ices.advice.19447970> see Quality of assessment, page 2

<sup>70</sup> Valentinsson, D., Bergenius M, Bergström U., Jonsson P., Wennerström L., Gilljam D. 20220204. Beställning sill/strömning i norra Egentliga Östersjön. (SLUID: SLU.aqua.2022.2022.5.5-46)

<sup>71</sup> Redovisning av regeringsuppdrag att utreda hur fiskeregleringar kan utvecklas för att skydda kustlekande bestånd av sill i norra Egentliga Östersjön. Havs och vattenmyndigheten. 2022. Dnr 1:2021

<sup>72</sup> ICES. 2022. Herring (*Clupea harengus*) in Subdivision 28.1 (Gulf of Riga). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.28. <https://doi.org/10.17895/ices.advice.19447976>

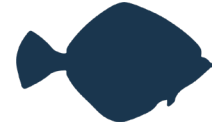
<sup>73</sup> ICES. 2022. Herring (*Clupea harengus*) in Subdivisions 30 and 31 (Gulf of Bothnia). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.3031. <https://doi.org/10.17895/ices.advice.19447979>.

<sup>74</sup> Valentinsson, D., Bergenius M, Bergström U., Jonsson P., Wennerström L., Gilljam D. 20220204. Beställning sill/strömning i norra Egentliga Östersjön. (SLUID: SLU.aqua.2022.2022.5.5-46)

<sup>75</sup> Redovisning av regeringsuppdrag att utreda hur fiskeregleringar kan utvecklas för att skydda kustlekande bestånd av sill i norra Egentliga Östersjön. Havs och vattenmyndigheten. 2022. Dnr 1:2021

<sup>76</sup> ICES. 2022. Herring (*Clupea harengus*) in Subdivisions 30 and 31 (Gulf of Bothnia). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, her.27.3031. <https://doi.org/10.17895/ices.advice.19447979> Page 3

## Baltic Sea plaice in SDs 22-32



**We recommend that the TAC for 2023 should not exceed 13,315 tonnes.** This is based on the ICES  $F_{MSY}$  catch scenario for plaice in SDs 21-23<sup>77</sup> and in SDs 24-32<sup>78</sup>.

We note the likelihood of significant bycatch of eastern Baltic cod when catching plaice in SDs 24-26.<sup>79</sup> The setting of the plaice TAC needs to be carefully considered in the context of conservation measures and a rebuilding plan for eastern Baltic cod.

The ICES report states that *"cod and flounder overlap in the entire distribution area of the eastern Baltic cod stock; plaice and eastern Baltic cod overlap in subdivisions 24-25. Therefore, there are no areas or months where flatfish fisheries with non-selective gears could be conducted in subdivisions 24-26 without a risk of bycatch of cod. Only a small fraction of EU flatfish landings were taken in subdivision 26 in later years (6% of flounder landings in 2018). Therefore, a potential closure of subdivision 26 for demersal fisheries would have limited implications for EU flatfish fisheries, while protecting a substantial part of the eastern Baltic cod stock."*<sup>80</sup>

To avoid bycatch of eastern Baltic cod, for which ICES advises zero catches, we recommend that the Commission and the Council set a TAC lower than 13,315 tonnes for plaice, and mandate more selective fishing gears to avoid cod bycatch in the flatfish fisheries (see ICES<sup>81,82</sup>), as well as spatial closures of SDs 24 and 26.

Considering the high illegal discarding of cod in the flatfish fishery, we urge Member States to install mandatory REM on all vessels in the targeted flatfish fishery with new trawl designs. Pilot projects with REM<sup>83</sup> have shown a significant reduction in illegal discarding, as well as a change in fishing practices which led to reduced bycatches of cod in the first place.

Furthermore, we recommend that the Commission requests the ICES Working Group on Mixed Fisheries Advice (WGMIXFISH) to prioritise the mixed demersal fishery in the Baltic Sea, where the cod, plaice and flounder stocks overlap. This will ensure the best available science in relation to setting mixed fisheries catch limits can be utilised. In this context, the Commission and the Council should ensure that the most vulnerable stocks are not overfished when proposing and setting TACs in mixed fisheries.

## Baltic Sea (excluding the Gulf of Finland) salmon in SDs 22-31



**We recommend that the TAC for 2023 should be 0 in mixed stock fisheries at sea. TAC should be set at no more than 50,000 salmon, and active and targeted salmon fishing can only take place in SDs 29 (north) - 31 within 4 nautical miles from the coast.**

The salmon in the Baltic Sea does not consist of one single stock, yet it has long been managed as such. In fact, there are at least 32 wild self-reproducing stocks (several rivers are potential wild salmon rivers but status is unknown, and/or are currently supported by large rearing and release programmes) with a very high degree of variation. Salmon rivers differ in geographical location, size, water quality and available spawning area, among other factors. In summary, the river stocks from the northern parts of the Baltic Sea are in better condition, compared to the stocks in the mid or southern areas of the Baltic catchment. At more mature life stages, many of the salmon mix in the main basin area of the Baltic to feed and they are in this area targeted by a fishery. Setting

<sup>77</sup> ICES. 2022. Plaice (*Pleuronectes platessa*) in subdivisions 21–23 (Kattegat, Belt Seas, and the Sound). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, ple.27.21–23, <https://doi.org/10.17895/ices.advice.19453550>

<sup>78</sup> ICES. 2022. Plaice (*Pleuronectes platessa*) in subdivisions 24-32 (Baltic Sea, excluding the Sound and Belt Seas). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, ple.27.24-32, <https://doi.org/10.17895/ices.advice.19453583>

<sup>79</sup> ICES (2020). Report on eastern Baltic cod bycatch in non-targeted fisheries, mixing with western Baltic cod in SD24, and stock situation in SDs 27-32 (Ad hoc). ICES Scientific Reports. 1:76. 69 pp

<sup>80</sup> ICES (2020). Report on eastern Baltic cod bycatch in non-targeted fisheries, mixing with western Baltic cod in SD24, and stock situation in SDs 27-32 (Ad hoc). ICES Scientific Reports. 1:76. 69 pp

<sup>81</sup> ICES (2019). EU request for further information on the distribution and unavoidable bycatches of eastern Baltic cod. In Report of the ICES Advisory Committee, 2019. ICES Advice 2019, sr.2019.24

<sup>82</sup> ICES (2020). Report on eastern Baltic cod bycatch in non-targeted fisheries, mixing with western Baltic cod in SD24, and stock situation in SDs 27-32 (Ad hoc). ICES Scientific Reports. 1:76. 69 pp

<sup>83</sup> See for example J. Dalskov & Kindt-Larsen (2009) *Final Report of Fully Documented Fishery*. DTU Aqua and Danish Fisheries Agency 2021 "Electronic monitoring in the Danish Kattegat (3AS) Nephrops fishery - Evaluation on phase 1 of the project"

a “global” fishing quota on salmon represents a big problem since there is no way of setting a level of fishing that safeguards the weaker stocks in this mixed pool of salmon stocks. The salmon stocks with origins in rivers in the Gulf of Finland (GoF) also mix with the other stocks in the Main basin and the separation of management is not possible in reality.

ICES has this year not updated the advice on fishing opportunities for salmon, and the advice is based on last year’s work as ICES considers the situation unchanged. The core management options were presented and evaluated already in 2020.<sup>84</sup> The advice takes the above situation into account, and considers management options that adhere to the CFP requirement to reach MSY for commercial stocks by setting relevant exploitation rates.

**ICES notes that there is no scope for catches in the mixed stock situation that is consistent with the MSY approach and advises that the mixed sea fishery should be closed.** ICES adds that some fisheries can still take place in certain areas. The ICES advice states:

*“ICES advises that according to the MSY approach the catch of salmon in the mixed-stock sea fisheries (both commercial and recreational) should be zero in 2023.”<sup>85</sup>*

If spatial and temporal management is put in place ICES notes that some fishing can take place: *“ICES considers that if sea fishing can be confined to existing coastal fisheries during the spawning migration (beginning of May to the end of August) in the Gulf of Bothnia and the Åland Sea, total sea catch (both commercial and recreational) in these areas of no more than 75,000 salmon could be taken.”<sup>86</sup>*

The salmon cannot be treated as one stock and management must change. ICES has noted the need to phase out the mixed sea fishery for well over ten years, thus the advice is not new and the Council in 2021 finally accepted this approach. ICES presents multiple scenarios, but only three of them use the consideration of spatial management (scenarios 7-10 in table 2 on page 7 of the advice). One option, noted as the MSY approach, is to only allow river fishery and this option is preferable but in the short term difficult to implement and needs, for example, new technical rules/delineations of areas.

### Other options and longer-term considerations

- All Baltic salmon stocks need to be considered individually and any new management plan must hold this as the core scope and objective. We recommend that a new EU proposal for a multi-annual plan is developed.
- A complete closure of additional areas with weak rivers also in the northern Baltic Sea areas is needed to limit the risk to weaker rivers.
- Commercial and recreational, non-angling, fisheries must be better managed and controlled in the northern areas of the Baltic.
- Recreational angling catches in northern sea areas (excluding the Åland Sea area) are limited currently but could increase and control/reporting must improve.
- River catches of all kinds must be better monitored and reported, and must have individually set limits per river.
- Rearing and releasing programs must be phased out and only used as a last resort to re-establish natural reproduction.
- Salmon management must fully include all recreational fisheries.

Key elements from the advice include:

- ICES advice states, in the section “Issues relevant for the advice”, that *“A large part of Baltic salmon fishing at sea is mixed-stock fisheries; this presents a particular management challenge as these fisheries are more likely to pose a threat to depleted stocks than fisheries on healthy (at or above MSY) wild or reared stocks in rivers as well as in estuaries or coastal areas (e.g. < 4 nm) where healthy single-river stocks dominate. Mixed-stock fisheries that catch weak wild stocks should be avoided. Ideally, management of salmon fisheries should be based on the*

<sup>84</sup> ICES. 2020. EU request on evaluation of a draft multiannual plan for the Baltic salmon stock and the fisheries exploiting the stock. In Report of the ICES Advisory Committee, 2020. ICES Advice 2020, eu.2020.02. <https://doi.org/10.17895/ices.advice.6008>

<sup>85</sup> ICES. 2022. Salmon (*Salmo salar*) in subdivisions 22–31 (Baltic Sea, excluding the Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.22–31. <https://doi.org/10.17895/ices.advice.19932815>

<sup>86</sup> ICES. 2022. Salmon (*Salmo salar*) in subdivisions 22–31 (Baltic Sea, excluding the Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.22–31. <https://doi.org/10.17895/ices.advice.19932815>

status of individual river stocks.”<sup>87</sup>

- ICES notes, in the section “Quality of the advice”, that “There is a lack of data about the amount of salmon discarded, and even less about the proportion of discarded salmon that survive. There is also little information about the amount of seal-damaged (and assumed dead) salmon. The values used in this advice represent the current available knowledge and are based on data from a variety of sources. Expert judgement has been applied where data are unavailable or sparse. Current estimates of discards are therefore uncertain and should be considered approximate.”<sup>88</sup> Furthermore, it is stated that “There are also substantial uncertainties regarding the level of bycatch of salmon in fisheries targeting other species, such as the pelagic trawl fishery for herring and sprat and the coastal fishery for e.g. whitefish”.<sup>89</sup> This needs to be considered when setting the TAC, as more precaution is warranted due to this uncertainty.

## Gulf of Finland salmon in SD 32



**We recommend that the TAC for 2023 should not exceed 9204 salmon.** The salmon in the GoF are dominated by released salmon and fishing on the wild salmon is not sustainable. The recommended TAC number is calculated from the ICES division of wanted reported catch and the Russian share deducted from the total. The fishery should target only reared fin-clipped salmon to keep fisheries-related mortality on wild salmon as low as possible.<sup>90</sup>

ICES notes: “Fisheries-related mortality on wild salmon from all wild and mixed (hatchery reared-wild) rivers in the Gulf of Finland should be as low as possible. Most of the salmon in the Gulf of Finland are of reared origin but fisheries still catch salmon from rivers with wild or mixed (hatchery reared-wild) origin fish. Measures to focus the fishing effort on reared salmon should be implemented.”<sup>91</sup>

Furthermore, uncertainty is noted in the Quality of the assessment:

“Information about the exploitation rate of wild salmon in the Gulf of Finland mixed-stock fisheries is limited, and there is a general lack of knowledge about the level of stock mixing during migrations between the Gulf of Finland, the Main Basin, and the Gulf of Bothnia.” and “Recreational sea and river catch statistics are uncertain.”<sup>92</sup>

<sup>87</sup> ICES. 2022. Salmon (*Salmo salar*) in subdivisions 22–31 (Baltic Sea, excluding the Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.22–31, <https://doi.org/10.17895/ices.advice.19932815>

<sup>88</sup> ICES. 2022. Salmon (*Salmo salar*) in subdivisions 22–31 (Baltic Sea, excluding the Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.22–31, <https://doi.org/10.17895/ices.advice.19932815>

<sup>89</sup> ICES. 2022. Salmon (*Salmo salar*) in subdivisions 22–31 (Baltic Sea, excluding the Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.22–31, <https://doi.org/10.17895/ices.advice.19932815>

<sup>90</sup> ICES. 2022. Salmon (*Salmo salar*) in Subdivision 32 (Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.32, <https://doi.org/10.17895/ices.advice.19933346>

<sup>91</sup> ICES. 2022. Salmon (*Salmo salar*) in Subdivision 32 (Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.32, <https://doi.org/10.17895/ices.advice.19933346>

<sup>92</sup> ICES. 2022. Salmon (*Salmo salar*) in Subdivision 32 (Gulf of Finland). In Report of the ICES Advisory Committee, 2022. ICES Advice 2022, sal.27.32, <https://doi.org/10.17895/ices.advice.19933346>





## 4. THE CFP'S LEGAL REQUIREMENTS FOR SETTING BALTIC SEA TACS

The annual setting of fishing opportunities is one of the most important tools for achieving the CFP objective of restoring all harvested fish populations to levels above those capable of producing MSY. The Baltic Sea MAP also provides a framework for the setting of certain Baltic Sea fishing opportunities in accordance with the targets as outlined in that plan and the objectives of the CFP. However, the target of sustainable exploitation rates by 2020 has not been met for many Baltic Sea stocks.<sup>93</sup>

### i) The MSY objective

Article 2(2) of the CFP states that to restore stock biomass above levels capable of producing MSY, the Maximum Sustainable Yield exploitation rate shall be achieved for all stocks by 2020. Setting fishing limits below MSY exploitation rates ( $F_{MSY}$ ) is crucial to allow fish stocks to recover above sustainable levels. For fish stocks in a very poor state, fishing mortality rates below the  $F_{MSY}$  point value can contribute to their restoration, but this alone is not enough. Effective control and monitoring together with additional measures based on the ecosystem-based approach to fisheries management such as spatial and temporal closures, considering predator-prey relationships, and transitioning to selective gears, are required.

### ii) Application of the precautionary approach

The requirement to set TACs at or below MSY exploitation rates is inseparable from the precautionary approach. Article 2(2) of the CFP and Article 3(1) of the Baltic Sea MAP also require a precautionary approach (per the United Nations Fish Stocks Agreement) as a basic requirement for EU fisheries management. The current disturbed state of the Baltic Sea ecosystem is unprecedented, and climate-driven changes are making things worse. It is more important than ever to act in a precautionary manner when setting TACs, to drastically minimise pressure on biodiversity, fish populations and habitats, restore marine food web functionality, and increase the capacity of the Baltic Sea ecosystem to mitigate and adapt to climate change. The CFP basic regulation has set the precautionary approach also in the context of the EU precautionary principle (Recital 10, referring to Article 191(2)(1) of the TFEU). The Commission and Ministers must therefore implement the CFP – and interpret scientific advice – in a precautionary manner and aim to achieve a high degree of conservation.

### iii) Appropriate implementation of the Baltic Sea MAP

The Baltic Sea MAP<sup>94</sup> in its Article 3 reiterates the CFP objective, set out in Article 2(2) of the basic regulation, to end overfishing by 2020 and to restore and maintain fish stocks above levels capable of producing MSY. This is prevented if fishing pressure is above MSY, so there is subsequently no justification for using the upper fishing mortality ranges. However, the MAP gives the legal basis to act with more precaution and set new measures, including moving a pelagic fishery and reducing catches to maximise food availability to the ecosystem, and considering the most vulnerable stock(s) when setting TACs. Provisions in the Baltic MAP have been cited as justifications to allow overfishing of Baltic stocks in the past, despite this being at odds with the CFP and the EU's wider environmental commitments.<sup>95</sup>

### iv) Implementation of the Landing Obligation (LO)

The LO provides an opportunity to meet the public's demand for reducing food waste and drive the transition to more selective, ecologically sustainable, low-impact fishing. Article 15 of the CFP basic regulation provides Member States with a range of tools to successfully implement the LO, however, it is understood that broadscale non-compliance with the LO is undermining the objectives of the CFP and of the MSFD, jeopardising scientific data and assessments, and has led to substantial increases in fishing mortality which threatens to implode the entire TAC management system.<sup>96, 97</sup> As long as compliance with the LO cannot be guaranteed, TACs have to be set below the catch advice by a sufficient margin to ensure that continued illegal discards do not bring fishing above sustainable levels.<sup>98</sup>

<sup>93</sup> [The Pew Charitable Trusts \(2020\). Analysis of Fisheries Council agreement on fishing opportunities in the Baltic Sea for 2020](#)

<sup>94</sup> [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](#)

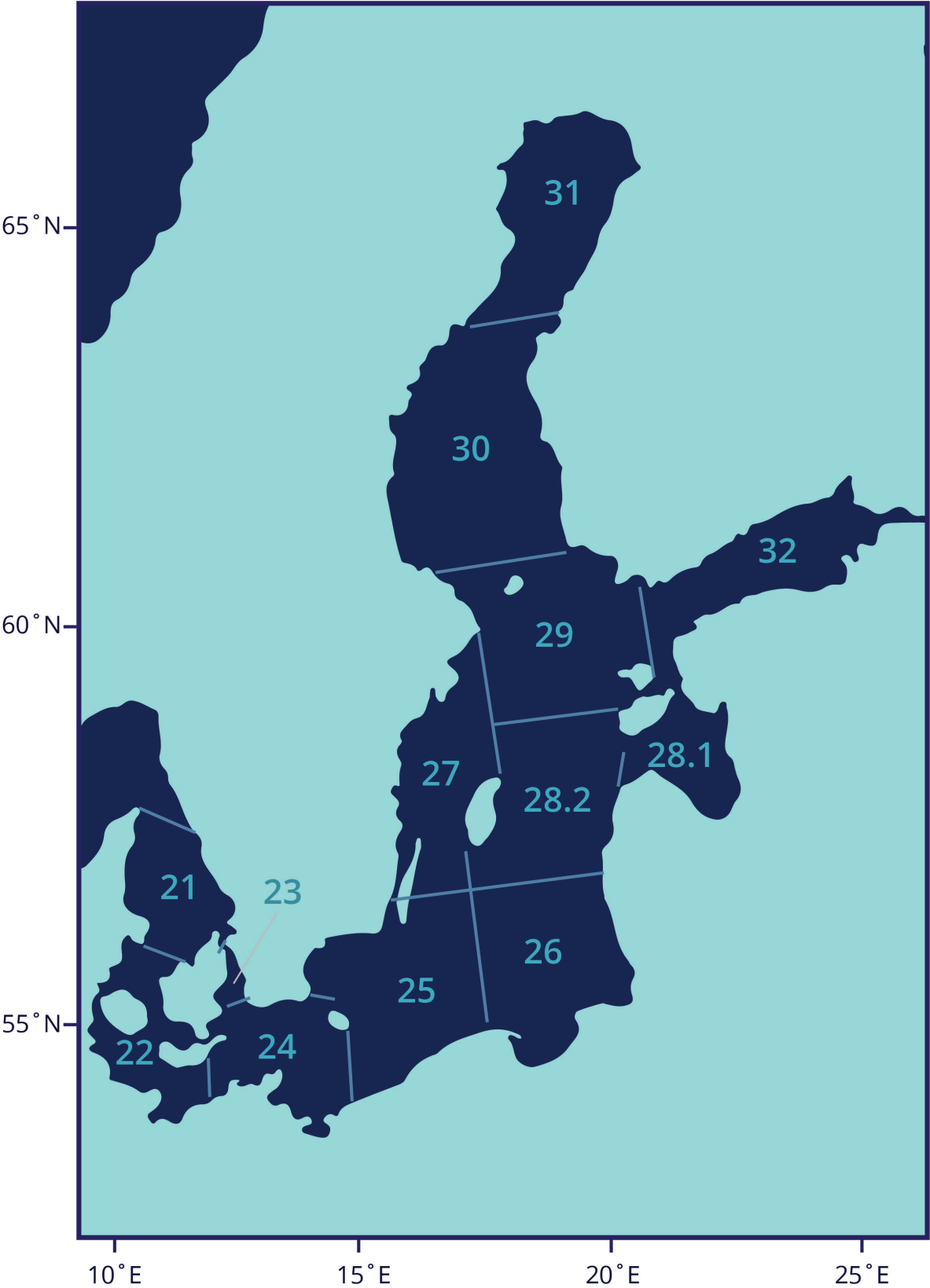
<sup>95</sup> [Fit for purpose? An assessment of the effectiveness of the Baltic Sea multi-annual plan \(BSMAP\). September 2019](#)

<sup>96</sup> [Scientific, Technical and Economic Committee for Fisheries \(STECF\) – 60th Plenary Meeting Report \(PLEN-19-01\). Publications Office of the European Union, Luxembourg, 2019. ISBN 978-92-76-02904-5, doi:10.2760/56785, JRC116423](#)

<sup>97</sup> [Borges, L \(2020\). The unintended impact of the European discard ban. ICES Journal of Marine Science, Volume 78, Issue 1, January-February 2021, Pages 134–141, https://doi.org/10.1093/icesjms/fsaa200](#)

<sup>98</sup> [ClientEarth \(2020\) Setting Total Allowable Catches \(TACs\) in the context of the Landing Obligation](#)

# MAP OF BALTIC SUBDIVISIONS (SDs)



Map of the Baltic Sea showing the subdivisions of the Belt, the Sound, and the Baltic for the reporting of catch statistics.

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