

## **BSAC recommendations on technical measures**

During 2015 and 2016 the Baltic Sea Advisory Council held joint working groups to discuss and propose amendments to the current technical measures regulation for the Baltic, [Reg 2187/2005<sup>1</sup>] as well as the Commission's proposal for a Regulation on technical measures<sup>2</sup>.

Even before the Commission's proposal for a Regulation on technical measures was tabled, the BSAC discussed the current technical measures and proposed amendments to enable the fishery to meet the demands of the landing obligation and stay in line with the CFP objectives<sup>3</sup>.

The BSAC welcomes the new approach to technical measures proposed by the Commission. It is based on simplification, adaptation of the decision-making process to the Lisbon Treaty, strengthening the long-term approach to conservation and resource management, regionalisation, more stakeholder involvement and more responsibility from the industry.

The BSAC hopes to see a more open-ended technical measures regulation after it has been adopted.

**The BSAC recommends the following amendments to technical measures:**

### **Comments / amendments to the main body of the proposal** <sup>4</sup>

#### **Recitals**

The BSAC will provide any necessary comments or amendments to the recitals at a later stage.

#### **Chapter I**

##### **Article 2 Scope**

The BSAC agreed that closures and protected areas should apply to all kinds of fisheries.

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<sup>1</sup> 2005R2187 — EN — 01.06.2015 — 003.001 — 1

<sup>2</sup> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 1224/2009 and Regulations (EU) No 1343/2011 and (EU) No 1380/2013 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005

<sup>3</sup> <http://www.bsac.dk/BSAC-Resources/BSAC-Statements-and-recommendations/2015-01-01-BSAC-recommendations-on-technical-measures>

<sup>4</sup> Based on the outcome of the WG held on 16th August 2016 and 15th December 2016.

#### **Article 4 Targets**

The BSAC recommends to replace the 5% target referring to the catch of fish below MCRS in the Regulation (Paragraph 1 (a)) by “the catches of marine species below MCRS should be as low as possible”. Specific targets should be decided at regional level, taking into account specific fisheries and stocks. A minority proposes to maintain the 5% target.

#### **Article 6: Definitions of terms**

The BSAC agrees that several elements should be corrected and added (inter alia add definitions of some fishing gears, such as fyke nets, pound nets and gears used in recreational fisheries, some small pelagic species, amend the definition of directed fishing, amend the definition of driftnets, amend the definition of Bacoma exit window by deleting the reference to knots, as they have no influence on selectivity and increase costs, amend the definition of codend, add a definition of innovative gears, clarify the difference between gear modifications and gear innovation). The BSAC agrees that the definitions need to be elaborated and that a clear set of definitions is needed. They should be cross-checked with the existing definitions in Technical Measures Regulation for the Baltic 2187/2005.

### **Chapter II**

#### **Article 9 General restrictions on the use of towed gears**

The BSAC recommends that the specification in Paragraph 1, stipulating that no part of any towed gear shall be constructed of a mesh size smaller than the codend mesh size should be deleted, because it is counter-productive.

The BSAC proposes to delete all detailed restrictions on the use of these gears, because simple rules make it easier to adapt the fishing gear to the prevailing conditions on the fishing grounds and therefore have the potential to result in lower catch of undersized fish. Some members have great concerns about the potential for manipulation of gear.

Referring to Article 9.4, there is agreement that rules for gear specifications should be addressed at regional level.

#### **Article 10 General restrictions on the use of static nets**

Names of certain shark species need to be carefully checked and corrected where appropriate.

#### **Article 11 Prohibited fish and shellfish species**

The BSAC proposes to revise, if necessary, the list of species by adding/deleting species.

#### **Article 14 Minimum conservation reference sizes**

The BSAC has comments to MCRS under the Annex.

### **Article 16 Prohibition of high grading and slipping**

The BSAC agrees that high grading and slipping should continue to be prohibited. Matters related to penalties and fines should be part of the Control Regulation and not the Technical Measures Regulation.

### **Article 18 Guiding principles on Regionalisation**

The BSAC recommends the following amendment to strengthen the role of the Advisory Councils in arriving at Joint Recommendations:

*In accordance with the procedure set out in Article 18 of Regulation (EU) No 1380/2013, **in close cooperation with relevant Advisory Councils**, Member States may submit joint recommendations defining appropriate technical measures at the regional level that deviate from the measures set out in paragraph 1.*

### **Articles 20 – 24**

The BSAC is of the opinion that Articles 20-24 constitute a tool box for areas where MAMPs do not apply. Since the Multiannual Management Plan is now in force in the Baltic,<sup>5</sup> the measures laid down in these Articles are not obligatory for Baltic fisheries. Nevertheless, the BSAC has discussed these articles and has had some comments, as follows:

### **Article 23 Real-time closures and moving-on provisions**

The BSAC is of the opinion that real time closures and moving on provisions could be applied in specific circumstances in order to ensure the protection of juvenile fish and shellfish species as well as sea birds, on the basis of scientific advice. It is agreed that Article 23 makes provision for the possibility for Member States, where necessary, to submit joint recommendations, and after the involvement of stakeholders.

### **Article 24 Innovative fishing gears**

The BSAC would like give the fishermen the freedom to adapt their gear to conditions prevailing on the fishing grounds, but also sees the need for a scientific evaluation of impacts when new gears are introduced. The BSAC recommends that a better definition of what innovation means is developed and to clearly separate it from gear modifications. The evaluation of new gears may require more scrutiny, but it is not reasonable to demand the same scrutiny of minor changes to a gear to improve selectivity etc.

The BSAC is in agreement to discuss further the issue of innovative gears at a later stage and to give the matter more scrutiny.

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<sup>5</sup> [http://www.bsac.dk/getattachment/BSAC-Resources/Documents-section/European-Parliament-and-Council/MAMPBaltic2016\\_1139http\\_\\_\\_eur-lex-europa.pdf.aspx?lang=en-GB](http://www.bsac.dk/getattachment/BSAC-Resources/Documents-section/European-Parliament-and-Council/MAMPBaltic2016_1139http___eur-lex-europa.pdf.aspx?lang=en-GB)

## Comments / proposed amendments to Annex VIII

### **Part A Minimum conservation reference sizes**

With reference to the MCRS for cod, the BSAC proposes to keep the MCRS for cod at 35 cm. A minority calls for an increase in the MCRS to 38 cm.

For the remainder of the species, the BSAC agrees to leave the MCRS proposed in the Commission's proposal.

With reference to salmon, the BSAC reserves its position due to the lack of a salmon multiannual plan in the Baltic. It recommends to the Commission that the work with a salmon multiannual plan should be prioritised and that the BSAC will abstain from taking any positions on technical measures regarding salmon until such a plan is presented.

### **Part B Mesh sizes**

#### **Baseline mesh sizes for towed gears**

##### **Pelagic fishery**

The BSAC recommends at present to maintain the catch composition table of Reg 2187/2005, but not to separate the meshes used for sprat and those used for herring. This would imply that all columns specifying target species for the meshes in the range from 5mm to 90 mm are merged into one column.

##### **Demersal fishery**

The BSAC proposes a 110 mm mesh size for Bacoma and T90 gears as an immediate and interim measure and to reword the specification of the window netting material, deleting any reference to the netting material other than that it must be square mesh. At the same time, a faster track to introduce new gears should be established. <sup>6</sup> Preferably, it should be possible to deviate from the "basic design" unless science documents that the deviation results in negative consequences.

The column defining the use of 90 mm mesh in Subdivisions 22-23 should be kept as it is.

In summary – the catch composition table for active gear in the Baltic must consist of three columns:

One column for mesh sizes from 5 mm to 105 mm. Catches of herring, sprat, sandeel and stickleback more than 90%. Maximum catch of cod 3%.

One column for mesh sizes equal to and above 90 mm in Subdivision 22-23, where all demersal species are allowed, but not more than 10% of cod.

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<sup>6</sup> During the BSAC discussions on selectivity in the trawl fisheries, reference was made to a Commission report number 870 from 2008  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0870&from=en>

One column for mesh sizes above 105 mm with Bacoma (with a new definition excluding the obligation to use knotless netting) or T90 with 110 mm and no further restrictions on catch composition.

### **Baseline mesh sizes for static gears**

The BSAC accepts the baseline mesh sizes for static gears as proposed by the Commission.

With reference to salmon, the BSAC reserves its position due to the lack of a salmon multiannual plan in the Baltic. It recommends to the Commission that the work with a salmon multiannual plan should be prioritised and that the BSAC will abstain from taking any positions on technical measures regarding salmon until such a plan is presented.

### **Part C closed or restricted areas**

#### **1. Restriction on fishing with towed gears**

The BSAC agrees to the restrictions on fishing with towed gears in the Rügen.

#### **2. Restriction on fishing for salmon and sea trout**

With reference to salmon, the BSAC reserves its position due to the lack of a salmon multiannual plan in the Baltic. It was agreed to recommend to the Commission that the work with a Salmon multiannual plan should be prioritised and that the BSAC will abstain from taking any positions on technical measures regarding salmon until such a plan is presented.

#### **3. Specific measures for the Gulf of Riga**

The BSAC takes note that the measures under Paragraph 3 refer to a particular sub-regional area and should be resolved by the Member State(s) concerned. The BSAC underlines the need to have sound scientific advice and evidence in establishing particular closed areas.

#### **4. Periods when fishing with certain types of gears is not allowed**

The BSAC is of the opinion that fisheries closures should not be part of the Annex to the Technical Measures Regulation. Closures as safeguard measures can be introduced under Article 31 of the Regulation, through delegated acts, where available scientific advice indicates that immediate action is required to protect marine species. A minority of the BSAC is of the opinion that closures should remain in paragraph 4.1 of the Annex and at the same time be part of the toolbox under the multi-annual plan.<sup>7</sup>

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<sup>7</sup> During the discussions, reference was made to a special request made to STECF for evaluating Baltic cod additional measures [https://stecf.jrc.ec.europa.eu/documents/43805/55543/2016-11\\_STECF+16-xx+-+Baltic+cod+-+special+request\\_JRCxxx.pdf](https://stecf.jrc.ec.europa.eu/documents/43805/55543/2016-11_STECF+16-xx+-+Baltic+cod+-+special+request_JRCxxx.pdf)

## **5. Area restrictions on fishing**

Paragraph 5, referring to area restrictions on fishing (spawning closures) should be deleted from the Annex to the Technical Measures Regulation. These measures should be part of the toolbox under the multi-annual plan.

With reference to salmon, the BSAC reserves its position due to the lack of a salmon MAMP in the Baltic. It recommends to the Commission that the work with a salmon MAMP should be prioritised and that the BSAC will abstain from taking any positions on technical measures regarding salmon until such a plan is presented.

## **6. Restrictions on fishing for flounder and turbot**

The BSAC recommends to delete Paragraph 6 of the Annex referring to the restrictions on fishing for flounder and turbot. These restrictions can be considered as market measures and are therefore inappropriate for inclusion in the Technical Measures Regulation.

## **Part D Mitigation measures for sensitive species.**

### **1. Measures to reduce incidental catches of cetaceans**

The BSAC recommends that Paragraph 1.1 should read as follows: Unless scientifically proven that harbour porpoise do not occur in the area, it shall be prohibited for vessels of 12 metres or over in overall length to deploy static nets in the Baltic Sea, without the simultaneous use of active acoustic deterrent devices”.