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Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2022/109 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Consultations with the United Kingdom on fishing opportunities under Article 498 of the Trade and Cooperation Agreement (TCA).¹

As signatories to the TCA, and considering their potentially differing policy considerations and orientations, both the Union and the United Kingdom exercised their respective roles by consulting the other party for the setting of fishing opportunities for shared stocks for 2022 pursuant to Article 498 TCA.

The Commission consulted with the United Kingdom in accordance with:

- Articles 498(2), 498(4)(a) to (d) and 498(6) TCA;
- The objectives and principles set out in Articles 2, 3, 28 and 33 of the Common Fisheries Policy (CFP) Regulation²;
- Articles 4 and 5 of the Western Waters³ and North Sea⁴ multiannual plans (MAPs); and
- the Council Decision establishing the position to be taken on behalf of the Union in the consultations with the UK to agree on fishing opportunities for shared stocks for 2022⁵.

In accordance with Article 494(3)(c) TCA, the Union based its position on the best available scientific advice as provided by the International Council for the Exploration of the Sea (ICES).

The Commission conducted the consultations in full coordination with the Council. The European Parliament was informed as appropriate.

On 21 December 2021, the Union agreed with the United Kingdom on the setting of a large number of total allowable catches (TACs) for 2022 (stocks listed in Annex 35 TCA). The agreement in principle was laid down in the Written Record for 2022, which was endorsed by

¹ Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (OJ L 149, 30.4.2021, p. 10).

² Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354 of 28.12.2013, p. 22).

³ Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83 of 25.3.2019, p. 1).

⁴ Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179 of 16.7.2018, p. 1).

⁵ Council Decision (EU) 2021/1875 of 22 October 2021 concerning the position to be adopted on behalf of the Union in the annual consultations with the United Kingdom to agree on total allowable catches (OJ L 378, 26.10.2021, p. 6).

the Council on 21 December 2021 and signed on the same day by the Heads of Delegation of the United Kingdom and by the Commission representative on behalf of the Union, in accordance with Article 498(6) of the TCA and in line with the Council Decision of 22 October 2021.

It is therefore necessary to implement TACs corresponding to fishing opportunities agreed in the Written Record for 2022 into the Union legal order. Such fishing opportunities for 2022 will allow fishing activities in an environmentally sustainable way in the long-term, and that is managed in ways consistent with the objectives of: (i) achieving economic, social and employment benefits; and (ii) contributing to the availability of food supplies, including promotion of a level playing field for Union operators where stocks are shared with the United Kingdom.

Fishing opportunities for autonomous Union stocks for 2022

The proposal also addresses the need to set fishing opportunities for anchovy (*Engraulis encrasicolus*) in ICES subarea 8 (Bay of Biscay) for 2022, after the release of the scientific advice for this stock by the ICES.

Regulation (EU) 2022/109⁶ set a provisional TAC for anchovy in ICES subarea 8 covering the period from 1 January 2022 to 30 June 2022, until the scientific advice for 2022 by the ICES would become available. The ICES released the scientific advice for the stock for 2022 on 17 December 2021. The TAC for that stock for 2022 should be set in line with that advice at 33 000 tonnes.

- **Consistency with existing policy provisions in the policy area**

The measures proposed are consistent with the objectives and rules of the CFP and are consistent with the Union's policy on sustainable development.

- **Consistency with other Union policies**

The measures proposed are consistent with other Union policies, in particular with the policies in the field of the environment.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of this proposal is Article 43(3) of the Treaty on the Functioning of the European Union.

The Union's obligations for sustainable exploitation of living aquatic resources arise from obligations set out in Article 2 of the CFP Regulation.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the Union exclusive competence as referred to in Article 3(1)(d) of the Treaty on the Functioning of the European Union. The subsidiarity principle therefore does not apply.

⁶ Council Regulation (EU) 2022/109 of 27 January 2022 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters (OJ L 21, 31.1.2022, p. 1–164).

- **Proportionality**

The proposal complies with the proportionality principle because the CFP is a common policy. According to Article 43(3) of the Treaty on the Functioning of the European Union, it is incumbent upon the Council to adopt the measures for fixing and allocating fishing opportunities.

- **Choice of the instrument**

Proposed instrument: Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

During consultations with the United Kingdom on the fishing opportunities, the Commission informed and consulted with stakeholders (notably representatives of non-governmental organisations and of fishing industry organisations). The Commission also maintained contact with national administrations through intensive coordination. The Commission periodically informed advisory councils of progress in the consultations.

- **Collection and use of expertise**

The proposal is based on the scientific advice of the ICES.

- **Impact assessment**

On stocks that are shared with the United Kingdom, this proposal essentially implements internationally agreed measures. Any elements relevant to assess possible impacts of the fishing opportunities are dealt with in the preparation and conduct phase of international negotiations through which the Union's fishing opportunities are agreed with third parties.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposed measures will have no budgetary implications.

5. OTHER ELEMENTS

In line with Article 498 TCA, the TACs agreed by the Union with the United Kingdom and documented in the Written Record for 2022 correspond to the Union quota shares set out in Annex 35 TCA and Annex 36 TCA. The Commission's general approach to setting those TACs is based on the ICES advice for 2022, and is in line with the objectives set out in Articles 494(1) and 494(2) TCA and with the principles referred to in Article 494(3) TCA.

In line with the core conservation objective of the CFP as set out in Article 2(2) of the CFP Regulation and Article 3(1) of the Western Waters and North Sea MAPs, the Union agreed TACs with the United Kingdom for stocks with F_{MSY} advice (advice with levels of fishing opportunities expressing fishing pressure that delivers the maximum sustainable yield – MSY).

The consultations resulted in four TACs for stocks with MSY assessment and zero catch advice not being set in line with the ICES advice for a zero TAC. For three demersal stocks, TACs were agreed with the United Kingdom at by-catch levels (Cod Celtic Sea, Cod West of Scotland, and Whiting Irish Sea), and for one demersal stock (Herring Celtic Sea), a TAC has been set with the United Kingdom as a monitoring TAC following the ICES advice regarding the level of such a TAC.

Cod Celtic Sea is a target stock under the Western Waters MAP. A TAC was agreed between the Union and the United Kingdom at a level of 644 tonnes (-20% compared to 2021 level) for unavoidable by-catches in the mixed demersal fishery, leading to an increase in biomass of at least 82% and staying below the F_{MSY} upper value. While no new remedial (technical) measures were agreed with the United Kingdom, the Commission has recently adopted⁷ new gear-based measures and by-catch thresholds to reduce by-catches of cod in the Celtic Sea and adjacent waters. Those new measures will apply until 31 December 2022.

Cod West of Scotland is a by-catch stock under the Western Waters MAP. A TAC was agreed with the United Kingdom based on a rollover as requested by the United Kingdom, above the ICES determined F_{MSY} and above the upper F_{MSY} ICES advice rule. This will result in an increase in the stock size by 45% compared to the 2021 biomass level. This is one of the two stocks for which the Council adapted the Union position on 6 December 2021.

Whiting Irish Sea is a by-catch stock under the Western Waters MAP. A TAC was agreed, with the United Kingdom based on a rollover, as requested by the United Kingdom above the ICES determined F_{MSY} and above the upper F_{MSY} ICES advice rule. This will result in an increase in the stock size of at least 23% compared to the 2021 biomass level. This is one of the two stocks for which the Council adapted the mandate on 6 December 2021.

The proposal lists 32 TACs for stocks with precautionary advice. The Union sought agreement with the United Kingdom on these TACs, taking into account the corresponding ICES headline advice and the precautionary approach provided for in Article 2(2) of the CFP Regulation. Most of these TACs have been agreed with the United Kingdom in line with, or below the ICES advice levels. However, a number of TACs (Blue Ling [International 1, 2; North Sea; Skagerrak], Plaice [7hjk], Northern Prawn [North Sea] and Picked dogfish [Western waters]) were agreed with the United Kingdom at levels that avoid choking situations and cater for the specificities in mixed fisheries. A by-catch only footnote was added to the Northern Prawn (North Sea) TAC because the ICES advice suggests that this should not be a directed fishery. A monitoring TAC was agreed with the United Kingdom for

⁷ Commission Delegated Regulation (EU) 2021/2324 of 23 August 2021 amending Regulation (EU) 2019/1241 of the European Parliament and of the Council as regards technical measures for certain demersal and pelagic fisheries in the Celtic Sea, the Irish Sea and the West of Scotland (OJ L 465, 29.12.2021, p. 1–7).

herring West of Scotland (HER/5B6ANB) and the sister TAC herring West of Ireland (HER/6AS7BC), which will bring the biomass level to +21% in 2022 compared to the 2021 biomass level.

For a limited number of stocks (Rockall, West of Scotland, Irish Sea and Celtic Sea cod; Irish Sea whiting; Pollack 6 and 7), TACs were agreed with the United Kingdom at a level above that proposed by the Union in order to achieve an overall outcome considered necessary and desirable in terms of sustainability and socio-economic considerations, including the need to promote the level playing field.

TACs that deviate by more than 20% from the previously established TAC level

At the time of the adoption of the Western Waters and North Sea MAPs, the Commission made a statement that, where it proposes the setting of TACs that deviate by more than 20% from the previously established TAC level, these cases will be listed in the explanatory memorandum of the Commission proposal, providing, where appropriate, the underlying reasons for the TAC variations. In the context of the shared stocks with the United Kingdom, the Commission thereby provides such explanations for the main variations of the TACs included in this proposal.

TAC code	Name	2021 TAC (t)	2022 TAC (t)⁸	Percentage change (rounded)	Justification
ANF/2AC 4-C	Anglerfish (North Sea)	11,972	9,014	-25%	Following scientific advice, in agreement with the United Kingdom.
ARU/567	Greater Silver Smelt (Western)	3,729	11,626	+212%	Following scientific advice, in agreement with the United Kingdom. Due to revision of the assessment, this stock was upgraded to an analytical assessment (from category 3 to 1) and this led to a revised scientific advice for a higher TAC.

⁸ As set out in the Written Record before TAC deductions resulting from exemptions under the Landing Obligation.

TAC code	Name	2021 TAC (t)	2022 TAC (t)⁸	Percentage change (rounded)	Justification
HAD/6B1 214	Haddock (Rockall)	8,375	5,825	-30%	Following scientific advice, in agreement with the United Kingdom. Scientific advice advised a reduced TAC because of the decline in the abundance index and the application of the precautionary buffer.
JAX/4BC 7D	Horse Mackerel (Southern North Sea and Eastern Channel)	14,014	8,969	-36%	Following scientific advice, in agreement with the United Kingdom.
L/W/2AC 4-C	Lemon Sole and Witch (North Sea)	5,428	4,287	-21%	Following scientific advice, in agreement with the United Kingdom.
NEP/2AC 4-C	Nephrops (North Sea)	19,077	24,268	+27%	Following scientific advice, in agreement with the United Kingdom.
NEP/5BC 6	Nephrops (West of Scotland)	14,945	11,862	-21%	Set by the United Kingdom.
NOP/2A3 A4	Norway Pout (North Sea)	128,300	59,728	-53%	Following scientific advice, in agreement with the United Kingdom.
PLE/7DE	Plaice (English Channel)	11,920	9,138	-23%	Following scientific advice, in agreement with the United Kingdom.
PLE/7HJK	Plaice (7hjk)	67	114	+70%	Following scientific advice, in agreement with the United Kingdom.

TAC code	Name	2021 TAC (t)	2022 TAC (t) ⁸	Percentage change (rounded)	Justification
PRA/2AC 4-C	Northern Prawn (North Sea)	660	990 (by-catch only)	+50%	Change to by-catch TAC to avoid choking, in agreement with the United Kingdom.
SOL/07D	Sole (Eastern Channel)	3,248	2,380	-27%	Following scientific advice, in agreement with the United Kingdom.
SOL/24-C	Sole (North Sea)	21,361	15,330	-28%	Following scientific advice, in agreement with the United Kingdom.
SOL/7HJ K	Sole (7hjk)	280	213	-24%	Following scientific advice, in agreement with the United Kingdom.
SPR/7DE	Sprat (English Channel)	1 446	550 (from 1 January to 30 June)	-62%	Change of TAC year (to run from 1 July to 30 June in the following year). Therefore these fishing opportunities correspond to a special six-month TAC to cover the period from 1 January to 30 June 2022.
WHG/56- 14	Whiting (West of Scotland)	937	1,800	+92%	Allow increase below new scientific advice, agreed with the United Kingdom.

Inter-annual flexibility

The Union agreed with the United Kingdom that the inter-annual flexibility will not apply to the following stocks: Blue ling in international waters of ICES 1 and 2 (BLI/12INT-), Blue ling North Sea (BLI/24-), Blue ling in Skagerrak (BLI/03/A-), Cod West of Scotland

(COD/5BE6A), Cod Celtic Sea (COD/7XAD34), Picked dogfish Western Waters (DGS/15X14), Herring HER/7G-K, and Whiting Irish Sea (WHG/07A).

Discard exemptions

Where there are differences between the Union and the United Kingdom on the exemptions to the landing obligation, the United Kingdom confirmed it would make use of Union discard exemptions in 2022. However, due to the revised regime of exemptions in United Kingdom waters as notified to the Union on 17 November 2021, on which we are currently awaiting a reply from the United Kingdom on our subsequent comments and requests for clarification, the Union cannot say at this stage which of these exemptions the Union fleet could make use of while operating in United Kingdom waters.

TAC deductions

The fishing opportunities for stocks of species falling under the landing obligation pursuant to Article 15 of Regulation (EU) 1380/2013 take into account the fact that discarding is in principle no longer allowed. The amounts that, by way of exception, may continue to be discarded during the operation of the landing obligation should be deducted from that advice figure for total catches.

Quota exchanges

The Union sought to facilitate quota exchanges with the United Kingdom, in view of the setting up of a quota exchange mechanism by the Specialised Committee on Fisheries. It is appropriate to establish the procedure for carrying out such exchanges.

Seabass

Northern seabass is a non-quota stock shared with the United Kingdom. With this proposal, the Commission proposes to establish catch limitation measures for 2022 for this stock, as agreed in the framework of the consultations with the United Kingdom.

Sandeels

Article 11a of Council Regulation (EU) 2022/109 rolled over for 2022 seasonal closures for sandeels fisheries using certain towed gear in ICES divisions 2a, 3a and ICES subarea 4. Since the provisional TAC covering the period from 1 January to 31 March 2022 is now being replaced with a definitive TAC for the full year, the applicable closure period should also cover the period from 1 August to 31 December 2022, in addition to the period from 1 January to 31 March 2022. Article 11a should therefore be amended accordingly.

Prohibited species

In order to protect certain species from being fished, the Union and the United Kingdom agreed in the Written Record for 2022 to maintain the existing list of prohibited species as set out in Annex 2 to the Written Record for 2021.

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2022/109 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters

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) Council Regulation (EU) 2022/109¹ fixes for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters.
- (2) On 21 December 2021, the Union agreed with the United Kingdom on the setting of a large number of total allowable catches (TACs) for 2022 for stocks listed in Annex 35 to the TCA. The outcome of the consultations was documented in the Written Record, which was endorsed by the Council on 21 December 2021 and signed on the same day by the Head of Delegation of the United Kingdom and by the Commission representative on behalf of the Union, in accordance with Article 498(6) of the TCA and in line with the Council Decision of 22 October 2021².
- (3) The Written Record is a result of consultations conducted by the Union with the United Kingdom in accordance with Articles 498(2), 498(4)(a) to (d) and 498(6) of the Trade and Cooperation Agreement between the Union and United Kingdom (TCA)³, with the objectives and principles set out in Articles 2, 3, 28 and 33 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council concerning the Common Fisheries Policy⁴, Articles 4 and 5 of Regulations (EU) 2019/472 and 2018/973 concerning the Western Waters⁵ and North Sea⁶ multiannual plans (MAPs),

¹ Council Regulation (EU) 2022/109 of 27 January 2022 fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters (OJ L 21, 31.1.2022, p. 1–164).

² Council Decision (EU) 2021/1875 of 22 October 2021 concerning the position to be adopted on behalf of the Union in the annual consultations with the United Kingdom to agree on total allowable catches (OJ L 378, 26.10.2021, p.6).

³ Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (OJ L 149, 30.4.2021, p. 10).

⁴ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354 of 28.12.2013, p. 22).

⁵ Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and

and Council Decision (EU) 2021/1875 United Kingdom⁷ concerning consultations with the United Kingdom regarding fishing opportunities for shared stocks for 2022. The Union position was based during the consultations on the best available scientific advice as provided by the International Council for the Exploration of the Sea (ICES) in accordance with Article 494(3)(c) of the TCA.

- (4) It is therefore necessary to replace the provisional TACs that were established in Regulation (EU) 2022/109 in line with the fishing opportunities agreed in the Written Record and to implement other measures functionally linked to the fishing opportunities also agreed in the Written Record.
- (5) Such fishing opportunities for 2022 will allow for long-term environmentally sustainable fishing activities, managed with the aim of achieving economic, social and employment benefits and contributing to the availability of food supplies, including promotion of a level playing field for Union operators where stocks are shared with the United Kingdom.
- (6) There are certain stocks for which the International Council for Exploration of the Sea (ICES), while assessing them against MSY, has issued scientific advice for no catches. If TACs for those stocks were established at the level indicated in such scientific advice, the obligation to land all catches both in the Union and United Kingdom waters, including by-catches from those stocks, in mixed fisheries, would lead to the phenomenon of ‘choke species’. In order to balance the need for continuation of those mixed fisheries in view of the potentially severe socio-economic implications on complete interruption of those fisheries with the need to achieve a good biological status for those stocks, and taking into account the difficulty of fishing all stocks in a mixed fishery at MSY at the same time, the Union and the United Kingdom agreed that it is appropriate to establish specific TACs for by-catches for those stocks. The level of those TACs should be such that mortality for those stocks is decreased and that it provides incentives for improvements in selectivity and avoidance. The levels of the fishing opportunities for those stocks should be established in line with the Written Record in order both to ensure a level playing field for Union operators as well as to provide for the significant recovery of the biomass of those stocks at the same time.
- (7) Given that the biomass of the stocks of BLI/12INT, BLI/24, BLI/03A, COD/5BE6A, COD/7XAD34, HER/7G-K, and WHG/07A are below the biomass reference points (B_{lim}), the Union and the United Kingdom therefore agreed in the Written Record that it is necessary that Member States do not apply Article 15(9) of Regulation (EU) No 1380/2013 in respect of these stocks for transfers from 2021 to 2022, so that catches in 2022 will not exceed the TAC established for those stocks. The Union and the United Kingdom also agreed that the same applies for the stock of DGS/15X14, which is a prohibited species under Article 18(1)(o) of Regulation (EU) 2022/109.
- (8) The Union sought with the United Kingdom to find the highest possible level of convergence in the application of the landing obligation, including *de minimis* and

repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83 of 25.3.2019, p. 1).

⁶ Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179 of 16.7.2018, p. 1).

⁷ Council Decision (EU) 2021/1875 of 22 October 2021 concerning the position to be adopted on behalf of the Union in the annual consultations with the United Kingdom to agree on total allowable catches (OJ L 378, 26.10.2021, p. 6).

survivability exemptions, to ensure adherence to conservation objectives and a level playing field. The fishing opportunities that were agreed with the United Kingdom for stocks of species to which the landing obligation applies take into account the fact that discarding is in principle no longer allowed. The amounts that, by way of exception, may continue to be discarded during the operation of the landing obligation were therefore deducted from the advice figure for total catches as provided by ICES.

- (9) The Union and the United Kingdom agreed to continue the approach developed for the conservation of northern seabass, as set out in Article 11 of Regulation (EU) 2021/92⁸, notably that the overall fishing pressure on the stock remains below or equal that advised by ICES. Therefore, catch limitation measures should continue to be established for 2022 for this stock in ICES divisions 4b, 4c, 7a, and 7d to 7h. In light of the advice provided by ICES, the Union and the United Kingdom agreed to increases in catch limits for fishing activities using hooks and lines, and fixed gillnets. The Union and the United Kingdom also agreed a change from monthly to bi-monthly limits for trawls and seines. The Union and the United Kingdom also agreed to prioritise the improvement of the ICES assessment tool for seabass to allow for forecast calculations on the basis of MSY models. The Union and the United Kingdom further agreed that it is necessary to maintain the existing catch limitation measures applicable to recreational fishing. Since the provisional catch limits are now being replaced with catch limits for the full year, the relevant catch limitation measures should also cover the period from 1 April to 31 December 2022.
- (10) Regulation (EU) 2022/109 provides for a rollover of 2022 seasonal closures for sandeels fisheries using certain towed gear in ICES divisions 2a, 3a and ICES subarea 4. Since the provisional TAC, covering the period from 1 January to 31 March 2022, will now be replaced with a definitive TAC for the full year, the applicable closure period should also cover the period from 1 August to 31 December 2022.
- (11) Regulation (EU) 2022/109 sets a provisional TAC for anchovy in ICES subarea 8 applying from 1 January 2022 to 30 June 2022, awaiting the availability of scientific advice. ICES released the scientific advice for that stock for 2022 on 17 December 2021. The TAC for that stock for 2022 should therefore be amended in line with that advice.
- (12) In order to protect certain species from being fished, the Union and the United Kingdom agreed to maintain the existing lists of prohibited species.
- (13) Regulation (EU) 2022/109 should therefore be amended accordingly.
- (14) The catch limits provided for in Regulation (EU) 2022/109 apply from 1 January 2022. The provisions introduced by this Regulation concerning catch limits should therefore also apply from that date. Such retroactive application does not affect the principles of legal certainty and protection of legitimate expectations, as the fishing opportunities concerned are increased or have not yet been exhausted. For reasons of urgency, this Regulation should enter into force on the day following that of its publication in the Official Journal of the European Union,

⁸ Council Regulation (EU) 2021/92 of 28 January 2021 fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 31, 29.1.2021, p. 31–192).

HAS ADOPTED THIS REGULATION:

Article 1
Amendment of Regulation (EU) 2022/109

Regulation (EU) 2022/109 is amended as follows:

- (1) Article 7 is deleted;
- (2) Article 11 is replaced by the following:

‘Article 11
Measures on European seabass fisheries in ICES divisions 4b and 4c and ICES subarea 7

1. It shall be prohibited for Union fishing vessels, as well as for any commercial fisheries from shore, to fish for European seabass (*Dicentrarchus labrax*) in ICES divisions 4b and 4c and in ICES subarea 7 or to retain on board, tranship, relocate or land European seabass caught in that area.
2. The prohibition set out in paragraph 1 shall not apply to by-catches of seabass in shore-based commercial netting activities. This exemption applies to historic numbers of beach nets set at pre-2017 levels. Shore-based commercial netting activities shall not target seabass and only unavoidable by-catches of seabass may be landed.
3. By way of derogation from paragraph 1, in January 2022 and from 1 April to 31 December 2022, Union fishing vessels in ICES divisions 4b, 4c, 7d, 7e, 7f and 7h may fish for, retain on board, tranship, relocate or land European seabass caught in that area with the following gear and within the following limits:
 - (a) using demersal trawls⁹, for unavoidable by-catches not exceeding 760 kilogrammes per two calendar months (January and April; May and June; July and August; September and October; November and December) and 5 % of the weight of the total catches of marine organisms on board caught by that vessel per fishing trip;
 - (b) using seines¹⁰, for unavoidable by-catches not exceeding 760 kilogrammes per two calendar months (January and April; May and June; July and August; September and October; November and December) and 5 % of the weight of the total catches of marine organisms on board caught by that vessel per fishing trip;
 - (c) using hooks and lines¹¹, not exceeding 5,95 tonnes per vessel;
 - (d) using fixed gillnets¹², for unavoidable by-catches not exceeding 1,5 tonnes per vessel.

The derogations set out in the first subparagraph, point (c), shall apply to Union fishing vessels that have recorded catches of European seabass using hooks and lines over the period from 1 July 2015 to 30 September 2016.

⁹ All types of demersal trawls (OTB, OTT, PTB, TBB, TBN, TBS and TB).

¹⁰ All types of seines (SSC, SDN, SPR, SV, SB and SX).

¹¹ All long lines or pole and line or rod and line fisheries (LHP, LHM, LLD, LL, LTL, LX and LLS).

¹² All fixed gillnets and traps (GTR, GNS, GNC, FYK, FPN and FIX).

The derogations set out in the first subparagraph, point (d), shall apply to Union fishing vessels that have recorded catches of European seabass using fixed gillnets over the period from 1 July 2015 to 30 September 2016.

In the case of a replacement of a Union fishing vessel, Member States may allow the derogations to apply to another Union fishing vessel provided that the number of Union fishing vessels subject to each of the derogations and their overall fishing capacity do not increase.

4. The catch limits set out in paragraph 3 shall not be transferable between vessels and, where a bi-monthly limit applies, from one calendar two-month period to another.

For Union fishing vessels using more than one gear in two calendar months, the lowest catch limit set out in paragraph 3 for either gear shall apply. Member States shall report to the Commission all catches of European seabass per type of gear no later than 15 days after the end of each month.

5. In recreational fisheries, including from shore, in ICES divisions 4b, 4c, 6a, 7a to 7k:
 - (a) from 1 January to 28 February 2022 and from 1 to 31 December 2022:
 - (i) only catch-and-release fishing with a rod or a handline for European seabass shall be allowed.
 - (ii) During that period, it shall be prohibited to retain, relocate, tranship or land European seabass caught in that area.
 - (b) from 1 March to 30 November 2022:
 - (i) not more than two specimens of European seabass may be caught and retained per fisherman per day.
 - (ii) The minimum size of European seabass retained during this period shall be 42 cm.
 - (iii) Fixed nets shall not be used to catch or retain European seabass during this period.
6. Paragraph 6 shall be without prejudice to more stringent national measures on recreational fisheries.'
- (3) Article 15 is replaced by the following:

'Article 15

Closed fishing seasons for sandeels

Commercial fishing for sandeels with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm shall be prohibited in ICES divisions 2a, 3a and ICES subarea 4 from 1 January to 31 March 2022 and from 1 August to 31 December 2022.'

- (4) Annex IA, Part A is amended in accordance with Annex I to this Regulation.
- (5) Annex IA, Part B is amended in accordance with Annex II to this Regulation.
- (6) Annex II is amended in accordance with Annex III to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President