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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: 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

COUNCIL REGULATION (EU) 2022/...

of ...

**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) Regulation (EU) 2022/109 set a provisional total allowable catch (TAC) for northern prawn (*Pandalus borealis*) in ICES division 3a (Kattegat/Skagerrak), pending the publication of the relevant scientific advice provided by the International Council for the Exploration of the Sea (ICES), which it published on 9 May 2022. In accordance with the Agreed Record of fisheries consultations between the Union and Norway for the Skagerrak for 2022, the Union held bilateral consultations with Norway on the level of the definitive fishing opportunities for northern prawn in ICES divisions 3a and 4a East for 2022. The Union and Norway agreed on a TAC of 7 712 tonnes in ICES divisions 3a and 4a East, of which 5 398 tonnes are to be allocated to ICES division 3a.

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).

- (3) Regulation (EU) 2022/109 set provisional zero TACs for sprat (*Sprattus sprattus*) in ICES divisions 3a (Kattegat/Skagerrak), 2a (Norwegian Sea) and in ICES subarea 4 (North Sea) for the period from 1 July 2022 to 30 June 2023, pending the publication of the relevant scientific advice provided by the ICES, which it published on 9 May 2022. In accordance with the Agreed Record of fisheries consultations between the Union, Norway and the United Kingdom for 2022, the Union held trilateral consultations with Norway and the United Kingdom on the level of the definitive fishing opportunities for sprat in ICES divisions 3a, 2a and subarea 4 for the period from 1 July 2022 to 30 June 2023. The Union, Norway and the United Kingdom agreed on a TAC of 12 570 tonnes for ICES division 3a, and of 56 120 tonnes for ICES division 2a and subarea 4.
- (4) Regulation (EU) 2022/109 set a TAC of 550 tonnes for sprat in ICES divisions 7d and 7e (English Channel) from 1 January 2022 to 30 June 2022. For the period 1 July 2022 to 30 June 2023, ICES published its scientific advice on 9 May 2022. In accordance with the Written Record of fisheries consultations between the United Kingdom and the European Union for 2022, the Union held bilateral consultations with the United Kingdom on the level of the fishing opportunities for sprat in ICES divisions 7d and 7e from 1 July 2022 to 30 June 2023. The Union and the United Kingdom agreed on a TAC of 9 200 tonnes for ICES divisions 7d and 7e.

- (5) Regulation (EU) 2022/109 set at zero the TAC for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and Union waters of Committee for Eastern Central Atlantic Fisheries (CECAF) division 34.1.1 for the period from 1 July 2022 to 30 June 2023, pending the scientific advice for that period. ICES will issue its advice for that stock in June 2022. In order to ensure that fishing activity may continue until the definitive TAC is set on the basis of the latest scientific advice, a provisional TAC of 10 061 tonnes, based on the catches in the third quarter of 2021, should be established for July, August and September 2022.
- (6) A meeting of the International Commission for the Conservation of Atlantic Tunas Working Group on Mediterranean Albacore took place on 9-10 February 2022. At that meeting, it was agreed that those Contracting Parties and Cooperating Non-Contracting Parties who had agreed to the allocation scheme adopted at the meeting would submit monthly catch reports for fisheries targeting Mediterranean albacore (*Thunnus alalunga*) and quarterly catch reports for by-catches of this species. It is therefore necessary to specify dedicated codes to be used by Member States when reporting those catches.

- (7) Regulation (EU) 2022/109 implemented in Union law the revised catch limits for yellowfin tuna (*Thunnus albacares*) in the Indian Ocean Tuna Commission (IOTC) Area of Competence. The revised catch limits under IOTC resolution 2021/01 are no longer limited to purse seiners and now include all gears involved in the yellowfin tuna fishery. Since, by the end of 2021, an agreement among the Member States concerned had not been found on the most appropriate way to share the revised catch limits for these fishing opportunities, Regulation (EU) 2022/109 attributed, for the first half of 2022 as a provisional solution, an initial portion (50 %) of the Union share for yellowfin tuna in the IOTC area for 2022 to Member States. Given the need to allocate the Union fishing opportunities for yellowfin tuna in the IOTC Area of Competence to the Member States so that they can be fished by the Union fishing fleet in 2022, it is necessary for the Council to decide on the final allocation of these fishing opportunities that otherwise could not be fished. Since a small amount of yellowfin tuna is caught as by-catch by the longline fleet of Portugal, it was agreed that it is appropriate to allocate 100 tonnes to Portugal for those by-catches. Taking into account that catches by other gears than purse seiners represent a very limited part of the overall catches, it is appropriate to allocate these fishing opportunities, with the exception of those 100 tonnes, in accordance with the allocation key that previously existed for the TAC for purse seiners.

- (8) Regulation (EU) 2022/109 should therefore be amended accordingly.
- (9) 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. Given the urgency of avoiding interruptions of fishing activities, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1
Amendment of Regulation (EU) 2022/109

Regulation (EU) 2022/109 is amended in accordance with the Annex to this Regulation.

Article 2
Entry into force and date of application

This Regulation shall enter into force on the day 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 ...,

For the Council
The President

ANNEX

The Annexes to Regulation (EU) 2022/109 are amended as follows:

(1) In Annex IA:

(a) in Part A, concerning autonomous Union stocks, the first table is replaced by the following:

Species:	Anchovy <i>Engraulis encrasicolus</i>		Zone: 9 and 10; Union waters of CECAF 34.1.1 (ANE/9/3411)
Spain	4 812	(¹)	Precautionary TAC
Portugal	5 249	(¹)	
Union	10 061	(¹)	
TAC	10 061	(¹)	
⁽¹⁾ The quota may be fished only from 1 July 2022 to 30 September 2022.			

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(b) In Part B, concerning shared stocks, the tables for the stocks listed below are replaced by the following:

(i) the table for fishing opportunities for northern prawn in ICES division 3a is replaced by the following:

Species:	Northern prawn <i>Pandalus borealis</i>	Zone:	3a (PRA/03A.)
Denmark	1 874	Analytical TAC	
Sweden	1 009	Article 3 of Regulation (EC) No 847/96 shall not apply	
Union	2 883	Article 4 of Regulation (EC) No 847/96 shall not apply	
TAC	5 398		

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- (ii) the table for fishing opportunities for sprat and associated by-catches in ICES division 3a is replaced by the following:

Species:	Sprat and associated by-catches <i>Sprattus sprattus</i>	Zone:	3a (SPR/03A.)
Denmark	8 422 ⁽¹⁾⁽²⁾⁽³⁾	Analytical TAC	
Germany	18 ⁽¹⁾⁽²⁾⁽³⁾		
Sweden	3 187 ⁽¹⁾⁽²⁾⁽³⁾		
Union	11 627 ⁽¹⁾⁽²⁾⁽³⁾		
TAC	12 570 ⁽²⁾		

(1) Up to 5 % of the quota may consist of by-catches of whiting and haddock (OTH/*03A.). By-catches of whiting and haddock counted against the quota pursuant to this provision and by-catches of species counted against the quota pursuant to Article 15(8) of Regulation (EU) No 1380/2013 shall, together not exceed 9 % of the quota.

(2) This quota may be fished only from 1 July 2022 to 30 June 2023.

(3) Transfers of this quota may be effected to United Kingdom and Union waters of 2a and 4. However, such transfers shall be notified in advance to the Commission and to the United Kingdom.

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(iii) the table for fishing opportunities for sprat and associated by-catches in United Kingdom and Union waters of subarea 4 and United Kingdom waters of ICES division 2a is replaced by the following:

Species:	Sprat and associated by-catches <i>Sprattus sprattus</i>	Zone:	United Kingdom and Union waters of 4; United Kingdom waters of 2a (SPR/2AC4-C)
Belgium	633 (1)(2)	Analytical TAC	
Denmark	50 114 (1)(2)		
Germany	633 (1)(2)		
France	633 (1)(2)		
Netherlands	633 (1)(2)		
Sweden	1 330 (1)(2)(3)		
Union	53 976 (1)(2)		
Norway	0 (1)		
Faroe Islands	0 (1)(4)		
United Kingdom	2 144 (1)		
TAC	56 120 (1)		

(1) The quota may be fished only from 1 July 2022 to 30 June 2023.

(2) Up to 2 % of the quota may consist of by-catches of whiting (OTH/*2AC4C). By-catches of whiting counted against the quota pursuant to this provision and by-catches of species counted against the quota pursuant to Article 15(8) of Regulation (EU) No 1380/ 2013 shall together not exceed 9 % of the quota.

(3) Including sandeels.

(4) May contain up to 4% of by-catch of herring.

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(iv) the following fishing opportunities table for sprat in 7d and 7e for the period from 1 July 2022 to 30 June 2023 is added:

Species:	Sprat <i>Sprattus sprattus</i>	Zone:	7d and 7e (SPR/7DE.2)
Belgium	25 ⁽¹⁾	Analytical TAC	
Denmark	1 601 ⁽¹⁾		
Germany	25 ⁽¹⁾		
France	345 ⁽¹⁾		
Netherlands	345 ⁽¹⁾		
Union	2 341 ⁽¹⁾		
United Kingdom	6 859 ⁽¹⁾		
TAC	9 200 ⁽¹⁾		

⁽¹⁾ The quota may be fished only from 1 July 2022 to 30 June 2023.

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(2) In Annex ID, for the table of Mediterranean albacore (ALB/MED), in the row for the final TAC, a third footnote is added as follows:

‘(3) Special condition: by-catches of Mediterranean albacore are to be counted against this quota, but shall be reported separately (ALB/MED-BC).’;

(3) Annex II is replaced by the following:

‘ANNEX II

IOTC AREA OF COMPETENCE

Catches of yellowfin tuna (*Thunnus albacares*) by Union fishing vessels shall not exceed the catch limits set out in this Annex.

Species:	Yellowfin tuna <i>Thunnus albacares</i>	Zone:	IOTC Area of Competence (YFT/IOTC)
France	27 736	Analytical TAC	
Italy	2 367	Article 3 of Regulation (EC) No 847/96 shall not apply	
Spain	42 943	Article 4 of Regulation (EC) No 847/96 shall not apply	
Portugal	100 ⁽¹⁾	Article 4 of Regulation (EC) No 847/96 shall not apply	
Union	73 146		
TAC	Not relevant		

⁽¹⁾ Exclusively for by-catches. No directed fisheries are permitted under this quota.