

# COMMISSION SERVICES NON PAPER

**14 October 2022**

*This document serves as a basis for discussion at the Working Party on Internal and External Fisheries Policy.*

*It cannot in any circumstances be regarded as the official position of the Commission.  
It is intended solely for those to whom it is addressed*

## **Updates to Commission Proposal for a Council Regulation fixing the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2023 and amending Regulation (EU) 2022/109 as regards certain fishing opportunities in other waters (COM (2022) 415)**

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## 1. AMENDMENTS AS REGARDS REGULATION (EU) 2022/109

### EXPLANATORY NOTE

Council Regulation (EU) 2022/109 sets, among other total allowable catches (TACs), fishing opportunities for Norway pout (*Trisopterus esmarkii*) in International Council for the Exploration of the Sea (ICES) division 3a, United Kingdom and Union waters of ICES subarea 4 and United Kingdom waters of ICES division 2a (North Sea, Skagerrak and Kattegat), to be fished until 31 October 2022. Norway pout is a stock jointly managed with the UK. Therefore, consultations with the UK should take place in order to establish a TAC for the joint management of the stock.

For this specific TAC, the fishing year runs from 1 November to 31 October of the following year. In order to allow for the start of the fishery on 1 November 2022, a preliminary TAC for Norway pout in ICES division 3a, United Kingdom and Union waters of ICES subarea 4 and United Kingdom waters of ICES division 2a should be set, on the basis of the corresponding ICES advice from 7 October 2022<sup>1</sup>, for the period from 1 November 2022 to 31 December 2022.

In accordance with the Written Record of fisheries consultations between the Union and the UK for 2022<sup>2</sup>, the Commission has, on behalf of the Union, engaged in consultations with the UK to agree on the level of this preliminary TAC. They agreed to set a TAC for Norway pout in ICES division 3a, United Kingdom and Union waters of ICES subarea 4 and United Kingdom waters of ICES division 2a of 30 000 tonnes. The outcome of the consultation was enshrined in a Written Record, endorsed by the Council on 14 October 2022.

Fishing opportunities for Norway Pout for the period from 1 January to 31 October 2023 (including attached interspecies flexibilities) will be consulted on with the United Kingdom in order to set a definitive TAC.

In addition, the TAC for capelin (*Mallotus villosus*) in Greenland waters of ICES subareas 5 and 14, to be fished in a period from 15 October 2022 to 15 April 2023, is set at zero in Council Regulation (EU) 2022/109, pending the acceptance of the offer from Greenland made in the framework of the Sustainable Fisheries Partnership Agreement between the European Union on the one hand, and the Government of Greenland and the Government of Denmark on the other hand and the implementing Protocol thereto<sup>3</sup> The allocation of fishing opportunities of capelin is also dependent on the bilateral exchanges between the European Union and Norway.

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<sup>1</sup> <https://doi.org/10.17895/ices.advice.19772446>

<sup>2</sup> [Written Record of fisheries consultations between the United Kingdom and the European Union for 2022.](#)

<sup>3</sup> OJ L 175, 18.5.2021, p. 3. The Union approved the Sustainable Fisheries Partnership Agreement between the European Union, of the one part, and the Government of Greenland and the Government of Denmark, of the other part, and the implementing Protocol thereto, by means of Council Decision (EU) 2021/2043 of 18 November 2021 on the conclusion, on behalf of the Union, of the Sustainable Fisheries Partnership Agreement between the European Union, of the one part, and the Government of Greenland and the Government of Denmark, of the other part, and the implementing Protocol thereto (OJ L 418, 24.11.2021, p. 1).

The proposal aims at revising the existing TAC table for CAP/514GRN in Council Regulation (EU) 2022/109 by removing the closure expressed with quotas of “zero” and replacing them with “To be established”. This allows the participation in the fishery if the transfer of fishing opportunities from Greenland materialises. Until the final figures are included in the table through an amendment of Regulation (EU) 2022/109, the fishing activities by Norway and/or flag Member States should be limited to the quota levels, which the European Commission will notify to them.

ICES conducted a benchmark<sup>4</sup> for southern hake in ICES division 8c, subareas 9 and 10 and Union waters of CECAF 34.1.1. (Southern Bay of Biscay, Iberian waters and waters around the Azores) in February 2022. On 30 June 2022, ICES published scientific advice for that stock for 2023<sup>5</sup>, which is based on a new assessment model developed during that benchmark. The advice provided by ICES is maximum sustainable yield (MSY) advice rather than precautionary advice, as provided by ICES for 2021. In addition, ICES’ perception of the stock has changed, with an increase in the stock’s biomass in recent years. In July 2022, the Commission requested ICES to provide updated scientific advice for that stock for 2022, based on the new assessment model. ICES published such updated scientific advice, in the form of ICES Special Request Advice, on 12 October 2022<sup>6</sup>. The Commission proposes to amend the fishing opportunities for that stock for 2022, established by Regulation (EU) 2022/109, based on that updated scientific advice, and proposes to set the TAC in line with the highest value within the range of  $F_{MSY}$  ( $F_{MSY}$  upper), as hake is the most limiting species in the mixed fisheries.

#### AMENDMENTS TO THE RECITALS

1) Recital (20) is replaced by the following:

“(20) Council Regulation (EU) 2022/109<sup>7</sup> sets fishing opportunities for Norway pout until 31 October 2022 in ICES division 3a, the United Kingdom and Union waters of subarea 4, and the United Kingdom waters of 2a. The fishing period for Norway pout is from 1 November to 31 October. To enable the start of the fishery on 1 November 2022, and based on new scientific advice and following consultations with the United Kingdom, it is necessary to set a preliminary TAC for Norway pout in ICES division 3a, United Kingdom and Union waters of subarea 4, and United Kingdom waters of ICES division 2a from 1 November 2022 to 31 December 2022. This preliminary TAC should be set in line with ICES advice published on 7 October 2022. Regulation (EU) 2022/109 should therefore be amended accordingly.”

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<sup>4</sup> <http://doi.org/10.17895/ices.pub.20068997>

<sup>5</sup> <https://doi.org/10.17895/ices.advice.19448018>

<sup>6</sup> <https://doi.org/10.17895/ices.advice.21316344>

<sup>7</sup> 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).

2) The following recital is inserted

“(20a) The Sustainable Fisheries Partnership Agreement between the European Union on the one hand, and the Government of Greenland and the Government of Denmark on the other hand and the implementing Protocol thereto<sup>8</sup> provide that the Union is to receive 7,7 % of the TAC for capelin (*Mallotus villosus*) to be fished in Greenland waters of ICES subareas 5 and 14. On 7 October 2022, the Union received information from the Greenland authorities that following the best available scientific advice and based on the agreement reached between Greenland, Iceland and Norway on capelin, the Government of Greenland has fixed a quota of 100 779 tonnes. In accordance with the EU-Greenland Sustainable Fisheries Partnership Agreement and the implementing Protocol thereto, Greenland would like to offer the EU 7 760 tonnes, which equals to 7,7 % of the total TAC. Pending the acceptance by the EU of the offer of capelin by way of written notification by the Commission to the Greenland authorities, and implementation of that offer in Union law, fishing opportunities for that stock in Regulation (EU) 2022/109 should be marked “To be established”.”

3) The following recital is inserted:

“(20b) Updated scientific advice for southern hake in ICES division 8c, subareas 9 and 10 and Union waters of CECAF 34.1.1. for 2022 was published by ICES on 12 October 2022. That updated scientific advice is MSY advice and is based on a new assessment model developed by ICES during a benchmark for that stock held in February 2022. The fishing opportunities for that stock for 2022, established by Regulation (EU) 2022/109, should be amended based on that revised scientific advice, and the TAC be set in line with the highest value within the range of  $F_{MSY}$  (‘ $F_{MSY}$  upper’), as southern hake is the most limiting species in the mixed fisheries. Regulation (EU) 2022/109 should therefore be amended accordingly.”

4) Recital (21) is replaced by the following:

“(21) To avoid the interruption of fishing activities, the provisions of this Regulation relating to the Baltic Sea should apply from 1 January 2023. The catch limits provided for in Regulation (EU) 2022/109 apply from 1 January 2022. The provisions introduced by this Regulation concerning those catch limits should therefore also apply from 1 January 2022. However, this Regulation should apply to Norway pout in ICES division 3a, United Kingdom and Union waters of ICES subarea 4, and United Kingdom waters of ICES division 2a from 1 November 2022 until 31 October 2023 as this is the fishing season of Norway pout. In view of the need to continue sustainable fishing activities and to start the relevant fisheries on time for the opening of the fishing seasons, the provisions of this Regulation concerning catch limits for capelin in Greenland waters of ICES subareas 5 and 14 should apply from 15 October 2022. Since the fishing opportunities concerned either have not yet been exhausted or will be increased by this Regulation, the principles of legal certainty and protection of legitimate expectations

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<sup>8</sup> OJ L 175, 18.5.2021, p. 3. The Union approved the Sustainable Fisheries Partnership Agreement between the European Union, of the one part, and the Government of Greenland and the Government of Denmark, of the other part, and the implementing Protocol thereto, by means of Council Decision (EU) 2021/2043 of 18 November 2021 on the conclusion, on behalf of the Union, of the Sustainable Fisheries Partnership Agreement between the European Union, of the one part, and the Government of Greenland and the Government of Denmark, of the other part, and the implementing Protocol thereto (OJ L 418, 24.11.2021, p. 1).

are not affected by the retroactive application of this Regulation. For reasons of urgency, this Regulation should enter into force immediately after its publication.”

#### **AMENDMENTS TO THE ARTICLES**

- 1) In Articles 4, 6, 11(1) and 12 “the Annex” is replaced by “Annex I”.
- 2) Article 13 is replaced by the following:

*“Article 13*

*Amendments to Regulation (EU) 2022/109*

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

- (a) Annex IA, Part A, is amended in accordance with Annex II(a) to this Regulation.
- (b) Annex IA, Part B, is amended in accordance with Annex II(b) to this Regulation.
- (c) Annex IB is amended in accordance with Annex II(c) to this Regulation.”

- 3) Article 14 is replaced by the following:

“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 2023.

By way of derogation from the second paragraph:

- (a) Article 13, point (a), shall apply from 1 January 2022.
- (b) Article 13, point (b), shall apply from 1 November 2022 to 31 October 2023.
- (c) Article 13, point (c), shall apply from 15 October 2022 to 15 April 2023.”

#### **AMENDMENTS TO THE ANNEXES**

- 1) The title of the Annex is replaced by the following:

*“ANNEX I*

*TACs APPLICABLE TO UNION FISHING VESSELS IN AREAS WHERE TACs EXIST BY SPECIES AND BY AREA”*

- 2) The following annex is inserted:

*“ANNEX II*

*AMENDMENTS TO REGULATION (EU) 2022/109*

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

- (a) In Annex IA, Part A, the fishing opportunities table for hake (*Merluccius merluccius*) in ICES division 8c, ICES subareas 9 and 10 and Union waters of CECAF 34.1.1 is replaced by the following:

'Species:	Hake <i>Merluccius merluccius</i>	Zone:	8c, 9 and 10; Union waters of CECAF 34.1.1 (HKE/8C3411)
Spain	9 021	Analytical TAC	
France	866		
Portugal	4 209		
Union	14 096		
TAC	14 429'		

- (b) In Annex IA, Part B, the fishing opportunities table for Norway pout (*Trisopterus esmarkii*) in ICES division 3a, the United Kingdom and Union waters of ICES subarea 4 and United Kingdom waters of ICES division 2a is replaced by the following:

'Species:	Norway pout and associated by-catches <i>Trisopterus esmarkii</i>		Zone:	3a; United Kingdom and Union waters of 4; United Kingdom waters of 2a (NOP/2A3A4.)
<b>Year</b>	<b>2022</b>	<b>2023</b>		
Denmark	49 478 (1)(3)	24 727 (1)(6)		Analytical TAC
Germany	9 (1)(2)(3)	5 (1)(2)(6)		Article 3 of Regulation (EC) No 847/96 shall not apply.
Netherlands	36 (1)(2)(3)	18 (1)(2)(6)		Article 4 of Regulation (EC) No 847/96 shall not apply.
Union	49 524 (1)(3)	24 750 (1)(6)		
United Kingdom	10 204 (2)(3)	5 250 (2)(6)		
Norway	0 (4)	0 (4)		
Faroe Islands	0 (5)	0 (5)		
TAC	59 728	30 000		

(1) Up to 5 % of the quota may consist of by-catches of haddock and whiting (OT2/\*2A3A4). By-catches of haddock and 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.

(2) Quota may be fished in United Kingdom and Union waters of 2a, 3a and 4 only.

(3) May only be fished from 1 November 2021 to 31 October 2022.

(4) A sorting grid shall be used.

(5) A sorting grid shall be used. This amount includes a maximum of 15 % of unavoidable by-catches (NOP/\*2A3A4), to be counted against this quota.

(6) May only be fished from 1 November 2022 to 31 October 2023.'

(c) In Annex IB the fishing opportunities table for capelin (*Mallotus villosus*) in Grenland waters of ICES subareas 5 and 14 is replaced by the following:

‘Species:	Capelin <i>Mallotus villosus</i>	Zone:	Greenland waters of 5 and 14 (CAP/514GRN)
Denmark	To be established	Analytical TAC	
Germany	To be established	Article 3 of Regulation (EC) No 847/96 shall not apply.	
Sweden	To be established	Article 4 of Regulation (EC) No 847/96 shall not apply.	
All Member States	To be established (1)		
Union	To be established (2) (3)		
Norway	To be established (3)		
TAC	Not relevant		
(1)	Denmark, Germany and Sweden may access the ‘All Member States’ quota only once they have exhausted their own quota. However, Member States with more than 10 % of the Union quota shall not access the ‘All Member States’ quota at all. Catches to be counted against this shared quota shall be reported separately (CAP/514GRN_AMS).		
(2)	Fishing may start when the Union accepts an offer for such quotas from the Greenland authorities in the framework of the Sustainable Fisheries Partnership Agreement between the European Union on the one hand, and the Government of Greenland and the Government of Denmark on the other hand and the implementing Protocol thereto. Member States shall ensure that their catches do not exceed the quantity received from the Greenland authorities, after deduction of quantities transferred to Norway.		
(3)	For a fishing period from 15 October 2022 to 15 April 2023.’		

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## **2. AMENDMENTS AS REGARDS THE BALTIC SEA**

### **EXPLANATORY NOTE**

Three errors of clerical nature have been detected therefore the following amendments are needed:

- In Article 7(2), point (b), and Article 7(4), point (b), the exemption from the closures to protect spawning cod for longlines should be limited to areas within four nautical miles. Council Regulation (EU) 2021/1888<sup>9</sup> fixing the fishing opportunities in the Baltic Sea for 2022 includes such a limitation and, as stated in recitals (8) and (9) of the Commission proposal (COM (2022) 415), functionally linked remedial measures for cod should be maintained in 2023.
- In Annex I, the proposed figures in TAC table 1 relating to herring in subdivisions 30 and 31 (Gulf of Bothnia) should correspond, as stated in recital (11), to the lowest value within the range of  $F_{MSY}$  (' $F_{MSY}$  lower') contained in the ICES advice.
- The biomass of herring in ICES subdivisions 25-27, 28.2, 29 and 32 (central herring) is not within safe biological limits as defined in Article 4(1), point (8), of Regulation (EU) 1380/2013<sup>10</sup>. Therefore, Article 15(8) of that Regulation does not apply. TAC table 3 in Annex I should be adjusted accordingly.

### **AMENDMENTS TO THE ARTICLES**

Article 7(2), point (b), and Article 7(4), point (b), are respectively replaced by the following:

- “(b) for Union fishing vessels of less than 12 metres in length overall that fish with gillnets, entangling nets or trammel nets, with bottom set lines, longlines within four nautical miles measured from the baselines, drifting lines, handlines and jigging equipment or similar passive gear in areas where the water depth is less than 20 metres according to the coordinates on the official sea chart issued by the competent national authorities;”

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<sup>9</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 (OJ L 384, 29.10.2021, p. 1).

<sup>10</sup> 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, 28.12.2013, p. 22).



## AMENDMENTS TO THE ANNEXES

- 1) In Annex I, TAC table 1 relating to herring in subdivisions 30-31 is replaced by the following:

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**Table 1**

Species:	Herring <i>Clupea harengus</i>	Zone:	Subdivisions 30-31 (HER/30/31.)
Finland	65 627	Analytical TAC	
Sweden	14 420		
Union	80 047		
TAC	80 047		

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- 2) In Annex I, TAC table 3 relating to herring in subdivisions 25-27, 28.2, 29 and 32 is replaced by the following:

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**Table 3**

Species:	Herring <i>Clupea harengus</i>	Zone:	Union waters of Subdivisions 25-27, 28.2, 29 and 32 (HER/3D-R30)
Denmark	1 343	Analytical TAC	
Germany	356		
Estonia	6 859		
Finland	13 388		
Latvia	1 693		
Lithuania	1 782		
Poland	15 210		
Sweden	20 420		
Union	61 051		
TAC	Not relevant		

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