



Council of the
European Union

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PECHE 307

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	9 September 2022
To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 448 final
Subject:	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 as regards anchovy

Delegations will find attached document COM(2022) 448 final.

Encl.: COM(2022) 448 final



EUROPEAN
COMMISSION

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Council Regulation (EU) 2022/109¹ fixes for 2022 the fishing opportunities for certain fish stocks applicable in Union waters and for Union vessels in certain non-Union waters. Those fishing opportunities are amended several times during the period in which they apply to take account of the latest scientific advice and developments.

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

The measures proposed are consistent with the objectives of the common fisheries policy (CFP).

- **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 (TFEU).

- **Subsidiarity**

The proposal falls under the exclusive Union competence as referred to in Article 3(1)(d) TFEU. Therefore, the subsidiarity principle does not apply.

- **Proportionality**

The proposal allocates fishing opportunities to Member States in accordance with the objectives of Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy². Pursuant to Articles 16 and 17 of Regulation (EU) No 1380/2013, Member States must decide how the fishing opportunities available to them may be allocated to vessels flying their flag in accordance with certain criteria for the allocation of fishing opportunities. Therefore, Member States have the necessary margin of discretion when distributing the allocated total allowable catches (TACs), relating to the social/economic model of their choice to exploit the fishing opportunities available to them.

- **Choice of the instrument**

Council regulation.

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).

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, 28.12.2013, p. 22).

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

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

Not applicable.

- **Stakeholder consultations**

The Commission has consulted stakeholders, in particular through the Advisory Councils, and Member States on its approach to the various proposals for fishing opportunities, on the basis of its annual Communication *Towards more sustainable fishing in the EU: state of play and orientations for 2022*.

Stakeholders' responses to the above annual Communication set out their views on the Commission's evaluation of the state of the resources and on the appropriate management response. The Commission considered the responses when formulating this proposal.

- **Collection and use of expertise**

The Commission consulted the International Council for the Exploration of the Sea (ICES) on the methodology to be used. ICES scientific advice is based on a framework developed by its expert groups and decision-making bodies, and issued in line with its framework partnership agreement with the Commission.

- **Impact assessment**

The scope of Council Regulation (EU) 2022/109 is circumscribed by Article 43(3) of the TFEU.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposed measures will have no budgetary implications.

5. OTHER ELEMENTS

Anchovy (*Engraulis encrasicolus*) in ICES division 9a is a short-lived species, with large inter-annual stock fluctuations and for which the fishery largely depends on the incoming year class. Therefore, ICES provides scientific advice in June for the management period from 1 July to 30 June of the following year. This ensures that the ICES scientific advice is based on the best possible assessment of the annual recruitment of this short-lived species.

Council Regulation (EU) 2022/109, as amended by Council Regulation (EU) 2022/1091³, sets a provisional TAC for anchovy in ICES subareas 9 and 10 and Union waters of the Fishery Committee for the Eastern Central Atlantic (CECAF) 34.1.1 for the period from 1 July 2022 to 30 September 2022, pending the release of the ICES scientific advice for the period from 1

³ Council Regulation (EU) 2022/1091 of 30 June 2022 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 (OJ L 176, 1.7.2022, p. 5).

July 2022 to 30 June 2023, and allowing the fishery to continue. The provisional TAC of 10 061 tonnes is based on the catches in the third quarter of 2021.

Following the release of the ICES scientific advice⁴ for that stock on 17 June 2022, the definitive TAC for the period from 1 July 2022 to 30 June 2023 should be set. The TAC should be set at the level of 15 777 tonnes, the amount indicated in that ICES scientific advice.

⁴ <https://doi.org/10.17895/ices.advice.19447751>

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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) 2022/109⁵ 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, as amended by Council Regulation (EU) 2022/1091⁶, sets a provisional total allowable catch (TAC) for anchovy (*Engraulis encrasicolus*) in International Council for the Exploration of the Sea (ICES) subareas 9 and 10 and Union waters of the Fishery Committee for the Eastern Central Atlantic (CECAF) 34.1.1 for the period from 1 July 2022 to 30 September 2022, pending the release of the ICES scientific advice for the period from 1 July 2022 to 30 June 2023, and allowing the fishery to continue. Following the release of that advice on 17 June 2022, the definitive TAC for the period from 1 July 2022 to 30 June 2023 should be set. The TAC should be set at the level of 15 777 tonnes indicated in that advice.
- (3) Regulation (EU) 2022/109 should therefore be amended accordingly.
- (4) The catch limit for anchovy in ICES subareas 9 and 10 and Union waters of CECAF 34.1.1. should apply from 1 July 2022. Such retroactive application does not affect the principles of legal certainty and protection of legitimate expectations, as the fishing opportunities concerned are increased. For reasons of urgency, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

⁵ 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).

⁶ Council Regulation (EU) 2022/1091 of 30 June 2022 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 (OJ L 176, 1.7.2022, p. 5).

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

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 July 2022.

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

Done at Brussels,

For the Council
The President