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NOTE

From:	General Secretariat of the Council
To:	Delegations
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 • Commission non-paper

Delegations will find attached a Commission non-paper on the above-mentioned proposal.

COMMISSION SERVICES NON-PAPER

7 March 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 COM (2022)54 for a Council Regulation amending Regulation (EU) 2022/109 as regards certain fishing opportunities for 2022 in Union and non-Union waters

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I. Amendment to Commission Proposal regarding quota allocation for North Sea herring

Explanatory note

Pursuant to Regulation (EU) 2022/109[1], 89% of the North Sea herring TAC can be fished in ICES area 4a-b and 11% in ICES area 4c-7d. The Swedish herring quota in area 4a-b is 4 064 tonnes.

During, and in the follow up to, the Agriculture and Fisheries Council meeting of December 2021, the Swedish delegation informed the Commission that the resulting quota allocation would conflict with the terms of the Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded[2] ("the Act"), as modified by Council Decision 95/1/EC[3]. The Commission has examined that information. Further to that examination, the present non-paper updates the Commission proposal for a first amendment to Regulation (EU) 2022/109 with a view to resolving that conflict.

In accordance with Article 121(1) of the Act, the Swedish herring quota is to be quantified based on a fixed share of the overall EU quota in the North Sea (areas 2a, 4 and 7d). This fixed share was 1.433% of the overall EU quota when the United Kingdom of Great Britain and Northern Ireland (the UK) was part of the EU and became 1.8414% following the withdrawal of the UK from the EU. In line with the historic allocation of fishing opportunities, the Swedish herring quota is to be allocated in areas 2a and 4a-b only.

In view of the above, the Swedish herring quota, of which 100% is allocated to areas 2a and 4a-b, should result in a quota for Sweden in area 4a-b of 4 093 tonnes. The Swedish herring quota fixed in Regulation (EU) 2022/109 should therefore be increased by 29 tonnes. This increase in the

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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 Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, Contents (OJ C 241, 29.8.1994, p. 9–404), Article 121(1), p. 42.

3 Decision 95/1/EC of the Council of the European Union of 1 January 1995 adjusting the instruments concerning the accession of new Member States to the European Union (OJ L 1, 1.1.1995, p. 1).

Swedish quota is reflected by a decrease, of equal value overall, in all other Member States' quotas. This would bring fishing opportunities for 2022 in line with the historic allocation key for Sweden, as guaranteed in the Act. It would also result in a minor internal reallocation of fishing opportunities for herring in areas 4c and 7d.

The adjusted fishing opportunities should apply from 1 January 2022. Such retroactive application does not affect the principles of legal certainty and the protection of legitimate expectations as the proposed changes to the Regulation would only result in minor alterations of the fishing opportunities concerned in proportion to their initial level.

Consequently, the fishing opportunities fixed in Regulation (EU) 2022/109 should be amended accordingly.

Amendments to the annexes

In the Commission proposal COM(2022)54, Annex II, the following fishing opportunities tables are added:

Species:	Herring[1] *Clupea harengus*		Zone:	Union, United Kingdom and Norwegian waters of 4 north of 53° 30' N (HER/4AB.)
Denmark	62 975		Analytical TAC	
Germany	41 147		Article 8(2) of this Regulation applies	
France	20 500			
Netherlands	51 946			
Sweden	4 093			
Union	180 661			
Faroe Islands	0			
Norway	124 012	[2]		
United Kingdom	75 916			
TAC	427 628			

[1] Catches of herring taken in fisheries using nets with mesh sizes equal to or larger than 32 mm.

[2] Catches taken within this quota are to be deducted from Norway's share of the TAC. Within the limit of this quota, no more than the quantity given below may be taken in United Kingdom and Union waters of 4a and 4b (HER/*4AB-C):

2 700

Special condition: within the limits of these quotas, no more than the quantity given below may be taken by the Union in Norwegian waters south of 62° N:

	Norwegian waters south of 62º N (HER/*4N-S62)
Union	2 700

Species:	Herring[1] *Clupea harengus*		Zone:	4c and 7d[2] (HER/4CXB7D)
Belgium	8 735	[3]	Analytical TAC	
Denmark	909	[3]	Article 8(2) of this Regulation applies	
Germany	594	[3]		
France	11 324	[3]		
Netherlands	20 058	[3]		
Union	41 620	[3]		
United Kingdom	5 419	[3]		
TAC	427 628			

[1] Exclusively for catches of herring taken in fisheries using nets with mesh sizes equal to or larger than 32 mm.

[2] Except Blackwater stock, i.e. the herring stock in the maritime region of the Thames estuary within a zone delimited by a rhumb line running due south from Landguard Point (51° 56' N, 1° 19,1' E) to latitude 51° 33' N and hence due west to a point on the coast of the United Kingdom.

[3] Special condition: up to 50 % of this quota may be taken in 4b (HER/*04B.).