REPORT

on a new CFP: structure for technical measures and multiannual plans (2015/2092(INI))

Committee on Fisheries

Rapporteur: Gabriel Mato
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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on a new CFP: structure for technical measures and multiannual plans (2015/2092(INI))

The European Parliament,

– having regard to the Treaty on the Functioning of the European Union (TFEU) and in particular Article 43 thereof,

– having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, in particular Articles 7(2), 9 and 10 thereof,

– having regard to Rule 52 of its Rules of Procedure,

– having regard to the report of the Committee on Fisheries (A8-0328/2015),

A. whereas the sustainability of fish stocks is the sine qua non for the future of the fishing industry;

B. whereas, since 2009, legislative proposals regarding technical measures and multiannual plans have made little headway, partly on account of tensions arising between the European institutions concerning their respective decision-making powers under Article 43 TFEU with regard to Commission proposals in the case of the multinational plans and partly because of difficulties in bringing legislation on technical measures into line with the Lisbon Treaty;

C. whereas the Common Fisheries Policy (CFP) (Regulation (EU) No 1380/2013) includes among its objectives restoring and maintaining populations of harvested species above levels which can produce the maximum sustainable yield (MSY), using an ecosystem- and selectivity-based approach; whereas technical measures and multiannual plans are among the main tools to achieve these objectives;

D. whereas the main changes introduced under the 2013 CFP reform also include the landing obligation and regionalisation;

E. whereas the complexity and diversity of technical measures as well as the fact that they are spread across many different regulations, have contributed to making implementation difficult for fishermen, which risks making fishermen mistrustful;

F. whereas the principle of regionalisation includes the consultation of the Advisory Councils with the purpose of bringing the stakeholders closer to the decision-making process and of better evaluating the possible socio-economic impacts of the decisions;

G. whereas the complexity of the technical measures and the difficulties in implementing them, coupled with the absence of any tangible results or incentives under the CFP have contributed to making fishermen mistrustful;

H. whereas the review of technical measures, in accordance with the best available
scientific advice and using an ecosystem-based approach, should seek to improve the environmental sustainability of the fishery and marine resources in a way that is consistent with the socioeconomic viability of the sector;

I. whereas achieving the objectives of the new CFP requires, among other things, the use of more selective fishing gear and practices;

J. whereas current innovations that improve the selectivity of fishing gear are frequently hindered by legislation;

K. whereas the landing obligation involves a substantial change of approach to fisheries management, and to demersal fisheries in particular, and hence to technical measures in key areas such as catch composition and the mesh size;

L. whereas particular emphasis needs to be placed on the importance of small-scale fishing for the sustainability of coastal communities, and in particular for the role of women and children; whereas the CFP alludes to a differentiated regime for small-scale fishing in Europe;

M. whereas a general definition is needed for the concept of small-scale fishing, in light of the role it plays in rehabilitating our seas and in preserving traditional and environmentally sustainable practices and trades;

N. whereas the definition of common basic principles for all sea basins through a framework regulation adopted through the ordinary legislative procedure under the Lisbon Treaty is necessary to ensure the implementation of the CFP objectives in the EU, to ensure a level playing field between operators and to facilitate the implementation and monitoring of technical measures;

O. whereas the ordinary legislative procedure is not always necessary in the case of measures taken at regional level or subject to frequent changes or which are based on standards and objectives decided by the co-legislators, but must be used for the adoption of rules that are common to all sea basins and also for measures contained in specific regulations or not likely to be amended in the foreseeable future;

P. whereas regionalisation must ensure that technical measures are adapted to the specific requirements of each fishery and each basin, ensuring flexibility and facilitating a rapid response to any arising emergencies; whereas regionalisation must make technical measures simpler and easier to understand, implement and enforce; whereas the adoption of technical measures on a regional basis should follow the model agreed by the co-legislators as agreed under the reformed CFP;

Q. whereas regionalisation can help make the rules simpler and more comprehensible, which would be greatly welcomed by the fisheries sector and other stakeholders, especially where they are involved in the adoption thereof;

R. whereas regionalisation should not lead to renationalisation, this being incompatible with the CFP, for which the EU has sole responsibility, given the shared nature of the resources;
whereas the adoption of technical measures on a regional basis should follow the model agreed by the co-legislators under the new CFP, namely for the Commission to adopt delegated acts on the basis of joint recommendations from the Member States concerned that meet the standards and objectives decided by the co-legislators, or, if the Member States concerned do not submit a joint recommendation within the designated time, on the Commission’s own initiative; whereas, however, Parliament retains the right to object to any delegated acts under the Lisbon Treaty;

whereas the revision of the framework of technical measures should present an opportunity to continue reflecting on regionalisation and to consider alternatives to delegated acts;

whereas certain proposals for specific regulations containing technical measures (concerning driftnets, cetacean bycatches, deep-sea fishing) have proved controversial; whereas some proposals, such as those concerning deep-sea fishing in the northeast Atlantic, have been blocked for over three years; whereas deliberations on driftnet fishing are also deadlocked; whereas a number of specific provisions regarding technical measures have been rejected by the regional fisheries management organisations (RFMOs);

whereas the technical measures should take account of the phenomenon of illegal fishing which is often accompanied by the illegal use of fishing gear, such as driftnets, and should outline an effective solution to the problem posed by illegal, unreported and unregulated (IUU) fishing;

whereas technical measures applicable in each EU fishing basin are not always adapted to the needs of innovative activities and different local fisheries; whereas, in light of this, fishermen need a set of technical measures based on a regional approach, which correspond to the diverse conditions of each sea basin; whereas the management of fish stocks in a sustainable way is vital and in that respect the simplification and adaptability of the legislation to the realities on the ground is important; whereas it is also necessary to take into due consideration the fact that fishing basins are shared by third countries, with conservation rules very different to those of Europe;

whereas in European waters, and in particular in the Mediterranean, it is vital that the Member States establish the necessary measures and cooperate to identify those citizens responsible for IUU fishing, thereby ensuring that applicable sanctions are imposed and border and ramp checks tightened;

whereas the multiannual plans adopted between 2002 and 2009 were not all equally effective; whereas new multiannual plans will be adopted under the new rules of the CFP;

whereas negotiations with those countries must be part of efforts to achieve sustainability;

whereas CFP reform introduced landing requirements and provided flexibility, exceptions and financial support under the European Maritime and Fisheries Fund (EMFF);
AB. whereas difficulties in implementing the discard ban in mixed fisheries are likely to arise with choke species;

AC. whereas, following the Lisbon Treaty, Parliament has joint legislative powers with regard to fisheries, aside from total allowable catches (TACs) and quotas;

AD. whereas it has, since 2009, been unable to adopt any multiannual plan, proposals having remained deadlocked in Council;

AE. whereas, within the interinstitutional task force on multiannual plans, the co-legislators recognised the importance of working together on the multiannual plans, so as to find practical solutions, despite differences in the interpretation of the legal framework provisions;

AF. whereas multiannual plans should provide a robust and lasting fisheries management framework, based on the best and most recent scientific and socio-economic findings, and should be flexible enough to adapt to the evolution of stocks and annual decision making on the granting of fishing opportunities;

AG. whereas a maximum sustainable yield limit and a deadline for achieving it, a precautionary safeguard trigger mechanism, a minimum target biomass, a mechanism for adapting to unforeseen changes in the best available scientific advice and a review clause were identified as the elements common to future multiannual plans;

AH. whereas the multiannual plans must set a general objective that is achievable in administrative and scientific terms; whereas they should include long-term stable yields in accordance with the best available scientific advice, something which must be reflected in annual Council decisions regarding fishing opportunities; whereas these annual decisions should be strictly confined to the granting of fishing opportunities;

AI. whereas the judgment of the Court of Justice of 26 November 2014 in Cases C-103/12 Parliament v Council and C-165/12 Commission v Council concerning the granting of fishing opportunities in EU waters to fishing vessels flying the flag of the Bolivarian Republic of Venezuela in the exclusive economic zone off the coast of French Guiana, establishes a precedent by clarifying the content and the limits of two different legal bases contained in Article 43 TFEU; whereas Article 43(3) may only be used as a legal basis for the granting of fishing opportunities under the TAC and quota regulations;

AJ. whereas the judgment of the Court of Justice is still pending in Case C-124/13 Parliament v Council regarding Council Regulation (EU) No 1243/2012 establishing a long-term plan for cod stocks, in which Parliament submitted that, given its aim and content, the regulation should have been adopted on the basis of Article 43(2) TFEU through the ordinary legislative procedure with Parliament as co-legislator; whereas Parliament is also opposed to dividing up the Commission proposal, the Council having split it into two legislative acts;

AK. whereas, in the absence of multiannual plans, minimum conservation reference sizes may be modified under discard plans adopted by the Commission in delegated acts on the recommendations of the Member States concerned, or, if the Member States concerned do not submit a joint recommendation within the designated time, on the
Commission’s own initiative; stresses the importance of both the protection of juveniles and of following scientific advice when taking decisions on the minimum conservation reference sizes;

AL. whereas discard plans will play an essential role in view of the changes in fishing techniques and hence in terms of fishing mortality and individual spawning biomass, both quantifiable objectives under the multiannual plans, possibly brought about by modifications in minimum conservation sizes; whereas, modification of minimum sizes through delegated acts would mean changing the principal parameters of the multiannual plans from the outside;

AM. whereas the co-legislators intended these delegated acts to be of a transitional nature, that were under no circumstances to be applied for more than three years;

AN. whereas, for the same species, minimum conservation reference sizes may vary from one area to another in order to take into account the specific nature of the species and fisheries; whereas, whenever possible, horizontal decisions for all areas are desirable in order to facilitate monitoring;

1. Considers that, in order to ensure the implementation of the CFP objectives, future technical measures should be simplified in order to remove any contradiction and/or duplication contained in a clearly structured legal framework and based on solid scientific data reviewed by peers;

2. Considers it necessary to compile a comprehensive list summarising all technical measures currently in force, in order to obtain a better overview of possible simplifications and deletions in relation to future technical measures;

3. Believes that technical measures must be reviewed in a bid to implement the objectives of the CFP, improve selectivity, minimise discards and the impact of fishing on the environment, simplify current rules, and increase the scientific base;

4. Considers that technical measures should be adapted to the specific needs of each fishery and each region, thus helping to improve compliance by the industry concerned;

5. Maintains that the simplification and regionalisation of technical measures should always be consistent with the real purpose of the technical measures regulation which is the minimisation of unwanted catches and impacts on the marine environment;

6. Considers that, in order to facilitate the implementation of the CFP rules and to make CFP rules more acceptable to the fisheries sector and other stakeholders and ensure compliance therewith, fishermen must be more involved in decision making, in particular within the Advisory Councils and be given incentives such as support through EMFF and other instruments for innovation, training, equipment and use of more selective fishing gear;

7. Considers that the new legislative framework will facilitate the further use of innovative fishing gear which has been scientifically proven to both increase selectivity and to have a reduced impact on the environment;
8. Considers that innovation and research will need to be promoted to ensure that the CFP is properly implemented, in particular as regards the landing of discards, in order to increase selectivity and modernise fishing and monitoring techniques;

9. Believes that the sustainable use of innovative fishing gear which has been proven to be more selective by independent scientific research should be permitted without restrictions or unnecessary quantitative limitations, governed by legislation and – insofar as further research is concerned – given financial support;

10. Considers it necessary to maintain the ordinary legislative procedure for the adoption of rules common to all sea basins, including the establishment of standards and objectives for technical measures, including technical measures contained in specific regulations, or for technical measures not likely to be amended within the foreseeable future and considers that the ordinary legislative procedure is not always necessary for measures adopted at regional level or which are possibly subject to frequent changes; is of the opinion that these measures should be evaluated on a regular basis in order to ensure they remain relevant; considers that the judicious use of delegated acts can meet this need for flexibility and responsiveness; recalls, however, that Parliament retains the right to object to any delegated acts under the Treaty;

11. Recommends that a clear, general European framework for technical measures should be defined, setting out a limited number of major cross-cutting principles; believes that all rules not applicable to the vast majority of European waters should not be included in this general framework but should instead come under regionalisation;

12. Considers that any measure adopted at regional level should conform to the technical measures framework regulation and be consistent with the objectives of the CFP and Marine Strategy Framework Directive (MSFD) 2008/56/EC;

13. Considers that rules regarding technical measures should be established through the appropriate use of the regionalisation process and be based on common centralised principles and definitions, including common objectives and standards to be applied throughout the EU, including a list of prohibited species and fishing gear, a set of specific rules for the larger sea basins and a number of specific technical regulations, all of which would be adopted by co-decision; notes that regionalisation would apply to rules applicable at regional level or subject to frequent changes and should be re-evaluated on a regular basis;

14. Underlines the need for the new technical measures framework regulation to be clearly worded, which will require a significant clarification effort; consequently requests that the existing technical measures regulations, in particular Council Regulations (CE) No 850/98 and No 1967/2006, be repealed beforehand in order to bring an end to the proliferation of regulations;

15. Recalls that as regards delegated acts, pursuant to Article 18 of the Basic Regulation, the Member States may, within a time limit to be set out in the regulation on the technical measures, submit recommendations to the Commission, and that the latter will not be able to adopt any act prior to the expiration of that time limit;

16. Considers it necessary to assess the suitability, effectiveness and socio-economic
implications for EU fleets and for the local communities of specific regulations based on technical measures while respecting the objectives of the CFP and of MSFD;

17. Believes that the technical measures should include specific provisions on the use of certain fishing gear in order to protect vulnerable habitats and marine species;

18. Believes that the technical measures should ensure that destructive and non-selective fishing gear is not used, and that the general use of explosive and poisonous substances should be prohibited;

19. Believes that there is an urgent need to establish a coherent set of technical measures for each of the three main basins, taking account of the specific nature of each, where Union decisions may have a significant impact on the recovery of fish stocks and the protection of ecosystems and on the sustainable management of shared fish stocks;

20. Considers that in accordance with the scientific definition and classification of fishing gear categories, it is necessary to split, in the case of the Mediterranean basin, trawl nets and shore seines because the legislation which regulates trawl nets should not be the same as that which regulates traditional coastal shore seines as these target mainly non-endangered species;

21. Maintains that, notwithstanding the landing obligation, in force since 1 January 2015 and to be progressively applied to all fish stocks by 2019, provisions regarding technical measures must be sufficiently flexible to adapt in real time to progress in the fisheries and to provide more opportunities for the fisheries sector to put innovations regarding selective fishing methods into practice;

22. Believes that the landing obligation constitutes a fundamental change for fisheries, and that the technical measures therefore need to be adapted so as to allow them to implement and facilitate more selective fishing; recommends the following three measures in order to achieve this:

- substantially modifying, or even revoking, the rules governing the composition of catches,

- affording greater flexibility as regards mesh sizes,

- making it possible to hold several types of gear on board;

23. Takes note of the difficulties arising from the coexistence of the marketing standards laid down by Council Regulation (EC) No 2406/96 and the minimum catch sizes; requests that they be harmonised by the new technical measures framework regulation;

24. Considers that a review of technical measures should take into account their impact in terms of biological resources conservation, the marine environment, fishing operating costs, and profitability in socio-occupational terms;

25. Believes that the conservation objective of the technical measures framework regulation could be achieved more effectively through actions aimed at improving supply and demand management with the assistance of producer organisations;
26. Considers that incidental artisanal fishing in the inland waters of the Member States and regions must remain outside the TACs;

27. Believes that multiannual plans play a vital role in the conservation of fisheries resources under the CFP, being the most suitable vehicle for the adoption and implementation of specific technical measures for different fisheries;

28. Believes that the co-legislators must continue to seek agreement on multiannual plans with regard to institutional competences under the Treaty on the Functioning of the European Union and on the basis of the relevant case law;

29. Believes that multiannual plans should form a robust and lasting framework for fisheries management, be based on best and most recent scientific and socio-economic findings recognised by peers, and be adapted to the evolution of stocks, as well as providing flexibility for annual Council decisions on fishing opportunities; notes that these annual decisions should not exceed the strict scope of the allocation of fishing opportunities, and should, as far as possible, seek to avoid large fluctuations thereof;

30. Maintains that progress must be made on future multiannual plans for restoring and maintaining stocks at levels above those that can produce the maximum sustainable yield, including an advance timetable, a conservation safeguard trigger, a mechanism for adapting to changes in scientific thinking and a review clause;

31. Considers that, in order to avoid problems arising from compulsory landings for mixed fisheries, improving selectivity and minimising unwanted catches is necessary; considers that it would be advisable to find ways of using the possibility of adopting flexibility measures and using the scientifically established ranges of fishing mortality to set TACs;

32. Reaffirms the need to increase the involvement of stakeholders through the Advisory Councils in the formulation and implementation of multiannual plans and in all decisions concerning regionalisation;

33. Believes that Parliament should give particularly close scrutiny to delegated acts regarding discard plans and reserve the right to object to any if it deems it necessary;

34. Considers that the transitional validity of the delegated acts regarding discard plans, including changes to the minimum conservation reference sizes, should not in any case exceed three years and should be replaced, where appropriate, by a multiannual plan and that, to that end, multiannual plans should be adopted as soon as possible;

35. Takes the view that, in the context of regionalisation, decisions on minimum conservation reference sizes for each species should be based on scientific advice; stresses the need to avoid marketing irregularities or fraud that could jeopardise the functioning of the internal market;

36. Instructs its President to forward this resolution to the Council and the Commission.
EXPLANATORY STATEMENT

1. Introduction

The 2013 reform of the common fisheries policy (CFP) sought among other things to secure maximum sustainable yields (MSY), using an ecosystem-based approach. Technical measures and multiannual plans have become the principal conservation instruments for achievement of this objective.

Since 2009, however, legislative proposals concerning technical measures and multiannual plans have made little headway. In the case of multinational plans, this has been due to an inter-institutional deadlock arising from the fact that the Commission's legislative proposals for multi-annual plans included the distribution of fishing opportunities among catch control measures, thereby leading to disagreements regarding Article 43 TFEU. In the case of technical measures, difficulties arose in bringing legislation into line with the Lisbon Treaty.

2. Technical measures

Technical measures have been introduced to prevent catches of juveniles and other bycatches. In principle, the system is based on three sets of geographically distinct arrangements (Baltic Sea, Mediterranean and Atlantic and other waters), consisting of a specific set of rules, and sometimes forming part of a wider range of management instruments, such as multiannual plans. They also include provisions relating to matters, such as the prohibition of driftnets, the prevention of incidental cetacean catches or the ban on on-board shark finning. In fact, the technical measures are contained in over 30 different regulations and are so complex, diverse and disorganised as to be inconsistent or even contradictory.

The complexity of the technical measures is partly due to the different legislative procedures and motivations giving rise to them. Some of them were sought by regional fisheries management organisations (RFMOs), while others were adopted under annual TAC and quota
regulations. However, most of them were adopted by the Council or Commission under the comitology procedure, before the entry into force of the Lisbon Treaty and without the involvement of the European Parliament.

The diversity and inconsistency of the technical measures is partly due to the fact that many of them were progressively adopted by the Council under the annual total allowable catch (TAC) and quota regulations. A number of them are therefore the result of political negotiations between the Member States and have little scientific basis, resulting in unjustified disparities between the different sea areas. Following the entry into force of the Lisbon Treaty of Lisbon, the various TACs and quotas must be adopted jointly by Parliament and Council.

The geographical basis of the technical measures is reflected clearly in the special treatment given to the Mediterranean, concerning which a more or less coherent set of measures was only adopted in 2006. However, the Mediterranean Advisory Council has on several occasions requested a review of certain technical measures. It is worth noting that, in its recent study on technical measures, the Commission omitted the Mediterranean, regarding it as too complex.

Some of the technical measures take the form of specific regulations. In most cases the legislative procedure has proved controversial. In particular, the proposal regarding deep-sea fishing in the north-east Atlantic has been stalled for more than three years. Deliberations on driftnet fishing have also ground to a halt. These difficulties and disputes can be attributed to the content of the proposals. On some issues such as on-board shark finning, the provisions have been rejected by the RFMOs, leaving EU fleets at a disadvantage compared to those from third countries. In other cases, such as the regulation on cetacean bycatches, their effectiveness remains to be assessed.

Moreover, the regulations on technical measures contain a series of exemptions and derogations and all the provisions have been amended. For example, Regulation (EC) No 850/1998 has been amended fourteen times. The complexity of the technical measures has

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1 A study in support of the development of a new technical conservation measures framework within a reformed CFP. Project no: ZF1455_S02. 7 July 2014
2 COM (2012) 0371 final - 2012/0179 (COD)
3 COM (2014) 0265 final - 2014/0138 (COD)
increased with these successive amendments. There are a number of inconsistencies, with no clear distinction being made between the scope of delegated and implementing acts respectively, thereby hampering progress on legislative proposals. Accordingly, all the technical measures have for some time needed to be rationalised, simplified and adapted to the Lisbon Treaty.

In 2002 and 2008, a number of attempts were made to review all technical measures\(^1\). One failed and a second finally turned out to be simply another in a very long series of amendments. Neither was any progress made on the legislative proposals seeking to align the three main geographical regulations with the Lisbon Treaty.

In May 2014, the Commission concluded a public consultation on a new framework of technical measures under the reformed CFP. Most of the Member States that responded regarded it as necessary to simplify technical measures to ensure a level playing field, requiring continued co-decision for the adoption of certain provisions. It was felt that the degree of regionalisation in regarding technical measures should be determined by factors such as practical implementation and the need for monitoring and surveillance. Stakeholders in the fisheries sector favoured a minimalist approach to the new set of technical measures, ruling out co-decision on micro-management issues. At the same time, NGOs felt the need for a general framework of technical measures including general objectives and minimum common standards to apply throughout the EU to in a bid to eliminate management shortcomings. Simplification at the expense of environmental protection was therefore undesirable.

Codecision will be necessary to ensure a level playing field and to facilitate enforcement and control under the future regulation on technical measures. Management can be simplified through regionalisation, ensuring the rules are adapted to the specific needs of each fishery and each basin, ensuring flexibility and allowing a rapid response in case of emergencies. In addition, it will help to simplify and clarify the rules, something which would be welcomed by stakeholders, particularly those involved in ensuring that the rules are implemented. However, full regionalisation is not consistent with the CFP, under which the EU has sole

\(^1\) Council Regulation (EC) No 12/2004 of 26 April 2004
competence, the resources being shared.

Codecision therefore does not seem necessary for measures applicable at regional level or possibly be subject to frequent changes but should continue to apply for rules common to all sea basins and unlikely to be amended in the foreseeable future.

Technical measures should be structured on three co-decisional axes and a fourth regionalisation axis. The first three would comprise a set of common centralised rules, a set of specific rules for the larger sea basins and a number of specific technical regulations adopted by co-decision. Regionalisation would apply to rules applicable at regional level or subject to frequent changes.

3. Multiannual plans

Multiannual plans are concerned with management of the principal species being fished. All of them seek to establish stock management objectives in terms of individual breeding biomass and fishing mortality. Most of the eleven multi-annual plans currently drawn up are concerned with total allowable catches (TACs). However, a number of them also refer to other instruments such as technical measures, fishing effort restrictions or specific monitoring rules.

These plans came into being after the 2002 CFP reform. Two of them regulate RFMO stocks of bluefin tuna and Greenland halibut, while the others regulate stocks in EU waters in line with instructions issued by the International Council for the Exploration of the Sea (ICES). Between 2002 and 2009 they made relatively little headway, and since 2009 no plans have been adopted, owing to the deadlock in Council.

The multiannual plans have been only partially effective, the least satisfactory results being attributed to weaknesses in mechanisms for reducing and monitoring fishing activities. It must be remembered that the CFP now attaches less importance to fleet management and effective fishing capacity. Although various crises have led to substantial fleet reductions, this has been accompanied by a much smaller reduction in fishing capacity.

Despite their importance, they have made little headway in recent years because of the

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interinstitutional deadlock arising from differences between Parliament and Council regarding the legal basis thereof, in particular regarding the choice between Article 43(2) or 43(3) TFEU. Under Article 43 (3), decision-making power rests entirely with the Council, while Parliament is excluded. On 26 November 2014, the Court of Justice delivered a judgment on two cases\(^1\) brought by the Parliament and the Commission against a Council decision concerning the allocation of fishing opportunities in EU waters to fishing vessels flying the flag of the Bolivarian Republic of Venezuela in the exclusive economic zone off the coast of French Guiana. This ruling establishes a precedent by clarifying that Article 43(3) may only be used as a legal basis for the allocation of fishing opportunities under the TAC and quota regulations;

A ruling of the Court of Justice is still pending in Case C-124/13 EP v Council regarding Council Regulation (EU) No 1243/2012 establishing a long-term plan for cod stocks, in which the Parliament submitted that, given its aim and content, the regulation should have been adopted on the basis of Article 43(2) TFEU through the ordinary legislative procedure with Parliament as co-legislator. Parliament is also opposed to dividing up the Commission proposal, the Council having split it into two legislative acts.

Moreover, in April 2014, the interinstitutional task force on the multiannual plans concluded its deliberations, during which the co-legislators recognised the importance of working together to find practical solutions, notwithstanding differences in their interpretation of the legal framework provisions. It was regarded as important for the multiannual plans to form a robust and sustainable framework for fisheries management based on the best available scientific intelligence, while allowing the necessary flexibility in line with stock adjustments and annual decisions regarding fishing opportunities.

It was acknowledged that future multiannual plans would need to include a maximum sustainable yield target and a deadline for achieving it, a conservation safeguard trigger, a mechanism for adapting to new scientific intelligence and a review clause.

Following the 2013 CFP reform of the CFP, multiannual plans must all include a maximum sustainable yield target and a deadline for achieving it, discard ban and compulsory landing

\(^1\) Cases C-103/12 Parliament v Council and C-165/12 Commission v Council
implementation provisions\(^1\), remedial safeguards and review clauses. Two quantifiable targets for multiannual plans, fishing mortality and spawning stock biomass, are also established.

While the CFP reform introduced a discard ban, it failed to resolve the rigidities inherent in the system of TACs and quotas. In view of the predictable problems with 'choke species' in mixed fisheries, it seems reasonable to favor certain instruments, such as fishing effort regulation, that are less rigid than the TAC and quota arrangements. In addition, regulation of fishing effort would make it easier to establish a maximum sustainable yield objective, improving the economic performance of the fleet for a given fishing mortality\(^4\). 2013 PPC reform

An essential element of CFP reform which affects both multiannual plans and technical measures is regionalisation\(^2\) or regional cooperation regarding conservation measures. Multiannual plans seem to be the most suitable vehicle for the adoption and implementation of specific technical measures in the context of regionalisation.

Where the Commission is accorded delegation of powers relating to multiannual plans, the conservation measures necessary under EU environmental legislation or compulsory landing, the Member States affected may submit joint recommendations within a specified period. Regarding the implementation of these recommendations, Member States are required to consult the Advisory Councils. The Commission may adopt the measures recommended by delegated acts and may also submit proposals if the Member States do not succeed in agreeing on joint recommendations within the time limit set. The Commission may also submit proposals if the joint recommendations are deemed not to be compatible with the objectives and quantifiable targets of the conservation measures. The only possible action that may be taken by the European Parliament is to object to a delegated act within a period of two months.

These new provisions have an impact on technical measures and largely depend on the presence or absence of multiannual plans and require the adoption of delegated acts by the Commission. For example, where no multiannual plan or management plan has been adopted for a given fishery, the Commission is empowered to adopt delegated acts laying down on a

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\(^1\) Compulsory landing - Article 15 of Regulation (EU) No 1380/2013 of the European Parliament and the Council of 11 December 2013

temporary basis (no more than three years) a specific discard plan, which can also include modifications regarding minimum size\(^1\).

Moreover, the Regulation on the compulsory landing\(^2\) introduced a number of modifications to the three regulations regarding regional technical measures (Atlantic, Mediterranean and Baltic). Discard plans have become the main vehicle for change through the delegation of powers to the Commission. It has empowered the Commission to set minimum sizes for the conservation of species subject compulsory by means of delegated acts and, where necessary, to grant derogations from minimum reference sizes. This occurred in the Baltic discards plan\(^3\), under which the minimum cod size was reduced from 38 cm to 35cm. In most cases, minimum conservation will be adopted by the Commission through delegated acts. This will facilitate the adoption of certain measures on a regional basis, while minimum conservation sizes will be applied at a higher level, possibly modifying significantly the development of multiannual plans. A minimum size modification means different fishing techniques, in turn affecting fishing mortality and the age pyramid of breeding individuals. The basic CFP regulation makes these two parameters measurable objectives of the multiannual plans\(^4\).

Modification of the minimum sizes in a delegated act would mean modifying the main parameters of multiannual plans from the outside. It must be remembered that minimum sizes play an essential role in marketing and in the monitoring of fishing activities.

5. Position of the rapporteur

5.1. Multiannual plans

The co-legislators must find practical solutions enabling multiannual plans to make rapid headway further to the case-law established by the EU Court of Justice.

Increased involvement of stakeholders in the formulation and development of multiannual plans is also necessary.

Finally, multiannual plans should be adopted as soon as possible, thereby ensuring that long-

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\(^1\) Article 15(6) of Regulation (EU) No 1380/2013
\(^3\) Commission Delegated Regulation (EU) nº 1396/2014 of 20 October 2014
\(^4\) Article 10(1)(c) of Regulation (EU) No 1380/2013 of the European Parliament and the Council of 11 December 2013
term measures are not regulated through discard plans, which should only be provisional in nature.

5.2. Technical measures

Future technical measures must be simple and clear so that they can be easily understood by fishermen.

As far as possible, they should be adapted to the specific needs of each fishery and each region (regionalisation).

However, provisions that are common to all sea basins or unlikely to be modified in the foreseeable future must be adopted by the EU co-legislators under the ordinary legislative procedure, i.e. codecision.

Indeed, full regionalisation would not be compatible with the CFP, under which the EU has sole competence, given that the resources are shared.

Finally, fishermen must be far more closely involved in the decision-making process down to the very last detail of the technical measures. Incentives must also be provided to ensure compliance therewith.
RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

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<tr>
<td><strong>Date adopted</strong></td>
<td>10.11.2015</td>
</tr>
<tr>
<td><strong>Result of final vote</strong></td>
<td></td>
</tr>
<tr>
<td>+:</td>
<td>14</td>
</tr>
<tr>
<td>-:</td>
<td>2</td>
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<tr>
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<td>6</td>
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<tr>
<td><strong>Members present for the final vote</strong></td>
<td>Marco Affronte, Clara Eugenia Aguilera García, Renata Briano, Alain Cadec, David Coburn, Diane Dodds, Linnéa Engström, João Ferreira, Ian Hudghton, Carlos Iturgaiz, António Marinho e Pinto, Gabriel Mato, Liadh Ní Riada, Remo Sernagiotto, Ricardo Serrão Santos, Isabelle Thomas, Ruža Tomašić, Peter van Dalen, Jarosław Wałęsa</td>
</tr>
<tr>
<td><strong>Substitutes present for the final vote</strong></td>
<td>Izaskun Bilbao Barandica, Ole Christensen, Verónica Lope Fontagné, Lidia Senra Rodríguez</td>
</tr>
<tr>
<td><strong>Substitutes under Rule 200(2) present for the final vote</strong></td>
<td>Tim Aker</td>
</tr>
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