



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Fisheries

2012/0077(COD)

18.9.2012

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multi-annual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks
(COM(2012)0155 – C7-0090/2012 – 2012/0077(COD))

Committee on Fisheries

Rapporteur: Jarosław Leszek Wałęsa

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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Justification

This recital is redundant.

Amendment 2**Proposal for a regulation – amending act
Recital 4***Text proposed by the Commission*

(4) In order to achieve in an efficient way the targets set out in Regulation (EC) No 1098/2007 and be able to react swiftly to changes in stock conditions or in fishery, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the revision of the **minimum** fishing mortality rates, when scientific data indicate that the rates are no longer appropriate and measures are not sufficient to reach the objectives of the plan. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Amendment

(4) In order to achieve in an efficient way the targets set out in Regulation (EC) No 1098/2007 and be able to react swiftly to changes in stock conditions or in fishery, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the revision of the **target** fishing mortality rates, when scientific data indicate that the rates are no longer appropriate and measures are not sufficient to reach the objectives of the plan **and with regard to setting periods when fishing with certain types of gear is allowed in respect of certain geographical areas**. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

Justification

The proposal goes too far in proposing that powers to adopt delegated acts should be conferred upon the Commission, but in some specific cases, it could be reasonable to use this measure.

Amendment 3

Proposal for a regulation – amending act Recital 6

Text proposed by the Commission

Amendment

(6) In order to ensure uniform conditions for the implementation of Article 29 of Regulation (EC) No 1098/2007, implementing powers should be conferred upon the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. *deleted*

Or. en

Justification

In this case, the Commission should be given powers to adopt delegated acts, compare AM 2 above.

Amendment 4

**Proposal for a regulation
Article 1 – point 1a (new)
Regulation (EC) No 1098/2007
Article 4 – point (a)**

Text proposed by the Commission

Amendment

(a) 0,33 on ages 3 to 6 years for the cod stock in Area A; and

Or. en

Justification

STECF report "Impact Assessment of Baltic cod multi-annual plans," states that in the single-species approach the target value of fishing mortality (F) for the two cod stocks should be at the level of 0.33.

Amendment 5

Proposal for a regulation

Article 1 – point 1b (new)

Regulation (EC) No 1098/2007

Article 4 – point (b)

Text proposed by the Commission

Amendment

(b) 0,33 on ages 4 to 7 years for the cod stock in Areas B and C.

Or. en

Justification

STECF report "Impact Assessment of Baltic cod multi-annual plans" states that in the single-species approach the target value of fishing mortality for the two cod stocks should be at the level of 0,33.

Amendment 6

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1098/2007

Article 5 – paragraph 1

Text proposed by the Commission

Amendment

1. Each year the Council shall decide ***in accordance with the Treaty*** on the TACs for the cod stocks concerned for the following year.

1. Each year the Council shall decide on the TACs for the cod stocks concerned for the following year.

Or. en

Justification

The Commission has proposed a new Article 29c which provides that that when the Council takes decisions under the Regulation it shall "act in accordance with the Treaty". Given the introduction of this general rule, it is superfluous to state the same rule here.

Amendment 7

Proposal for a regulation – amending act

Article 1 – point 3

Regulation No 1098/2007

Article 8 – paragraph 3

Text proposed by the Commission

"3. The **Council** shall **decide** each year **in accordance with the Treaty on the** maximum number of days absent from port outside periods specified in paragraph 1 in the following year when fishing with the gear referred to in paragraph 1 is allowed, in accordance with the rules set out in paragraphs 4 and 5."

Amendment

"3. The **Commission** shall **be empowered to adopt delegated acts, in accordance with Article 29a, defining, for** each year, the maximum number of days absent from port outside periods specified in paragraph 1 in the following year when fishing with the gear referred to in paragraph 1 is allowed, in accordance with the rules set out in paragraphs 4 and 5."

Or. en

Justification

The decision under this paragraph is such that it best be dealt with by the Commission by way of delegated acts.

Amendment 8

Proposal for a regulation

Article 1 – point 3a (new)

Regulation (EC) No 1098/2007

Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the fishing mortality rate for one of the cod stocks concerned has been estimated by the STECF to be at least 10% higher than the *target* fishing mortality rate defined in Article 4, the total number of days when fishing with the gear referred to in paragraph 1 is allowed shall be reduced by 10 % compared to the total number of days allowed in the current year.

Or. en

Justification

The word “minimum” is replaced with “target” throughout the Plan text to better define the fishing mortality values contained in Article 4.

Amendment 9

Proposal for a regulation

Article 1 – point 3b (new)

Regulation (EC) No 1098/2007

Article 8 – paragraph 5

Text proposed by the Commission

Amendment

5. Where the fishing mortality rate for one of the cod stocks concerned has been estimated by the STECF to be less than 10 % above or below the target fishing mortality rates defined in Article 4, the total number of days where fishing with the gear referred to in paragraph 1 is allowed shall be equal to the total number of days allowed in the current year, multiplied by the minimum fishing mortality rate defined in Article 4 divided by the fishing mortality rate estimated by STECF.

Where the application of the first subparagraph would result in an increase of the total number of days during which fishing with the gear referred to in paragraph 1 of this Article is allowed of more than 10 % compared to the total number of days allowed in the current year, the total number of the said days shall be increased by 10 %.

Or. en

Justification

The Plan does not provide any mechanism allowing for an increase of the number of days absent from port when the fishing mortality is below the target level. The amendment seeks to remedy this inadequacy. A provision restraining the increase of the number of days absent from port is added to avoid excessive fluctuations of fishing effort. The rule of maximum 10% increase is commensurate with the provision on decreases in paragraph 4.

Amendment 10

Proposal for a regulation

Article 1 – point 3c (new)

Regulation (EC) No 1098/2007

Article 8 – paragraph 6

Text proposed by the Commission

Amendment

6. By way of derogation from paragraph 1, fishing vessels with an overall length of less than 12 metres shall be permitted to fish with static gear in the area up to 12 nautical miles measured from the baselines.

Or. en

Justification

This rule was introduced when the cod stocks were at a low level, which is no longer the case. The amendment will allow small scale fisheries to fish cod during closed season, particularly during summer months with no negative effect on pre-spawning and spawning concentrations, which take place on the Baltic Deeps, away from coastal areas. This may prove economically important for this fleet segment as prices during the relevant period are high.

Amendment 11

Proposal for a regulation – amending act

Article 1 – point 4

Regulation No 1098/2007

Article 26

Text proposed by the Commission

Amendment

Every five years from 18 September 2007, the Commission shall evaluate the operation and performance of this multi-annual plan. Where *appropriate*, the Commission *may propose adaptations to the multi-annual plan or adopt delegated acts in accordance with Article 27.*"

Every five years from 18 September 2007, the Commission shall evaluate the operation and performance of this multi-annual plan. ***For the purpose of this evaluation, the Commission shall seek the advice of STECF and of the Baltic Sea Regional Advisory Council.*** Where *necessary*, the Commission *shall make appropriate proposals, for adoption in*

accordance with the ordinary legislative procedure, for the amendment of the multi-annual plan.

Or. en

Justification

The multiannual plan is the core matter of the regulation and can thus not be regarded as a non-essential element of it. Therefore, this part of the regulation must be amended, should the need arise, through the ordinary legislative procedure. The STECF and the Baltic Sea Regional Advisory Council should be mandatorily involved in the process of evaluating the multi-annual plan.

Amendment 12

Proposal for a regulation – amending act

Article 1 – point 5

Regulation No 1098/2007

Article 27

Text proposed by the Commission

*The Commission shall be empowered to adopt delegated acts in accordance with Article 29a **to revise** the **minimum** fishing mortality rates set out in Article 4, when **scientific data indicates that the values for the minimum** fishing mortality rates **are disaccording with** the objectives of the management plan.*

Amendment

Without prejudice to Article 26, the Commission shall be empowered to adopt delegated acts, in accordance with Article 29a, **revising** the **target** fishing mortality rates set out in Article 4, when **the Commission, on the basis of advice from STECF and after consulting fully with the Baltic Sea Regional Advisory Council, finds that the target** fishing mortality rates **set out in Article 4 are no longer appropriate to achieve** the objectives of the management plan..

Or. en

Justification

The STECF and the Baltic Sea Regional Advisory Council should be mandatorily involved in the process of evaluating the multi-annual plan. The word “minimum” is replaced with “target” throughout the Plan text to better define the fishing mortality values contained in Article 4.

Amendment 13

Proposal for a regulation – amending act

Article 1 – point 6 – paragraph 2

Regulation No 1098/2007

Article 29 – paragraph 2

Text proposed by the Commission

2. Article 8(1)(b), (3), (4) and (5) shall not apply to ICES Subdivisions 27 and/or 28.2 if there is evidence that catches of cod in those ICES Subdivisions are lower than 3% of the total catches of cod in Area B. The Commission shall, each year, **by means of implementing acts and on the basis of the reports from Member States referred to in paragraph 1 and of scientific data, confirm** whether such evidence exists and, consequently, whether the restrictions provided for in Article 8(1)(b), (3), (4) and (5) apply in the subdivisions concerned. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29b(2)**

Amendment

2. Article 8(1)(b), (3), (4) and (5) shall not apply to ICES Subdivisions 27 and/or 28.2 if there is evidence that catches of cod in those ICES Subdivisions are lower than 3% of the total catches of cod in Area B. The Commission shall **be empowered to adopt**, each year **on the basis of the reports from Member States referred to in paragraph 1 and of scientific data, delegated acts, in accordance with Article 29a, confirming** whether such evidence exists and, consequently, whether the restrictions provided for in Article 8(1)(b), (3), (4) and (5) apply in the subdivisions concerned.

Or. en

Justification

The proposed rule sets out whether certain restrictions to fishing apply in certain geographical areas. It does not set out any uniform conditions. For this reason it would not be in accordance with the Treaty to use implementing acts in this case, but the conditions for using delegated acts can be said to be at hand.

Amendment 14

Proposal for a regulation – amending act

Article 1 – point 6 – paragraph 2

Regulation No 1098/2007

Article 29 – paragraph 3

Text proposed by the Commission

3. Article 8(1)(b), (3), (4) and (5) shall only apply to ICES Subdivision 28.1, if there is evidence that the catches of cod are higher

Amendment

3. Article 8(1)(b), (3), (4) and (5) shall only apply to ICES Subdivision 28.1, if there is evidence that the catches of cod are higher

than 1.5% of the total catches of cod in Area B. The Commission shall, each year, **by means of implementing acts and on the basis of the reports from Member States referred to in paragraph 1 and of scientific data, confirm** whether such evidence exists and, consequently, whether the restrictions provided for in Article 8(1)(b), (3), (4) and (5) apply in the subdivision concerned. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29b(2)"**

than 1.5% of the total catches of cod in Area B. The Commission shall **be empowered to adopt**, each year **on the basis of the reports from Member States referred to in paragraph 1 and of scientific data, delegated acts, in accordance with Article 29a, confirming** whether such evidence exists and, consequently, whether the restrictions provided for in Article 8(1)(b), (3), (4) and (5) apply in the subdivisions concerned.

Or. en

Justification

The proposed rule sets out whether certain restrictions to fishing apply in certain geographical areas. It does not set out any uniform conditions. For this reason it would not be in accordance with the Treaty to use implementing acts in this case, but the conditions for using delegated acts can be said to be at hand.

Amendment 15

Proposal for a regulation – amending act
Article 1 – – point 6 – paragraph 4
Regulation No 1098/2007
Article 29 – paragraph 4

Text proposed by the Commission

4. The **implementing** acts referred to in paragraphs 2 and 3 shall apply from 1 January to 31 December of the following year."

Amendment

4. The **delegated** acts referred to in paragraphs 2 and 3 shall apply from 1 January to 31 December of the following year."

Or. en

Justification

As the power given to the Commission in the two preceding paragraphs is changed to the power to adopt delegated acts, also this paragraph needs to be changed.

Amendment 16

Proposal for a regulation – amending act

Article 1 – point 7

Regulation No 1098/2007

Chapter VIa (new) – Article 29 a (new) – paragraph 2

Text proposed by the Commission

2. The **delegation of** power referred to in **Articles 26 and 27** shall be conferred on the Commission for **an indeterminate** period of **time**.

Amendment

2. The power **to adopt delegated acts** referred to in **Article 8(3), Article 27 and Article 29(2) and (3)** shall be conferred on the Commission for a period of **three years from ...** * **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

* OJ please insert the date **of entry into force of this Regulation**

Or. en

Justification

The empowerment of the Commission should be limited in time.

Amendment 17

Proposal for a regulation – amending act

Article 1 – point 7

Regulation No 1098/2007

Chapter VIa (new) – Article 29 a (new) – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in **Articles 26 and 27** may be revoked at any time by the European Parliament or by the Council. A decision to **revocation** shall put an end to the delegation of the power

Amendment

3. The delegation of power referred to in **Article 8(3), Article 27 and Article 29(2) and (3)** may be revoked at any time by the European Parliament or by the Council. A decision to **revoke** shall put an end to the

specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Justification

This Article should refer to Articles 8(3), 27 and 29(2) and (3).

Amendment 18

Proposal for a regulation – amending act

Article 1 – point 7

Regulation No 1098/2007

Chapter VI a (new) – Article 29 b (new)

Text proposed by the Commission

Amendment

Article 29b

deleted

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established by Article 30 of Regulation (EC) No 2371/2002. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Or. en

Justification

This Article is redundant given that the Commission no longer is empowered to adopt implementing acts under the Regulation.