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**A7-0395/2012**

4.12.2012

**\*\*\*I**  
**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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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**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))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0155),
  - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0090/2012),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 11 July 2012<sup>1</sup>,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Fisheries (A7-0395/2012),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

**Proposal for a regulation – amending act**

**Recital 3**

*Text proposed by the Commission*

*Amendment*

***(3) In accordance with Article 290 of the Treaty the Commission may be empowered to supplement or amend non-***

***deleted***

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<sup>1</sup> OJ C 299, 4.10.2012, p. 145.

*essential elements of a legislative act by means of delegated acts.*

*Justification*

*This recital is redundant.*

## **Amendment 2**

### **Proposal for a regulation**

#### **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 ***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 ***with the Baltic Sea Regional Advisory Council and relevant stakeholders*** during its preparatory work, including at expert level.

## **Amendment 3**

### **Proposal for a regulation – amending act**

#### **Recital 6**

*Text proposed by the Commission*

***(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***

*Amendment*

***deleted***

***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.***

*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 1**

Regulation (EC) 1098/2007

Article 4 – introductory paragraph

*Text proposed by the Commission*

The plan shall ensure the sustainable exploitation of the cod stocks concerned on the basis of maximum sustainable yield by gradually reducing and maintaining the fishing mortality rates at levels no **lower** than:

*Amendment*

The plan shall ensure the sustainable exploitation of the cod stocks concerned on the basis of maximum sustainable yield by gradually reducing and maintaining the fishing mortality rates at levels no **higher** than:

*Justification*

*The management plan should indicate a maximum fishing mortality, not a minimum fishing mortality.*

**Amendment 5**

**Proposal for a regulation**

**Article 1 – point 1**

Regulation (EC) No 1098/2007

Article 4 – point (a)

*Text proposed by the Commission*

*Amendment*

**(a) 0,25 on ages 3 to 6 years for the cod stock in Area A; and**

### *Justification*

*The mortality rate for this area should follow the relevant advice from ICES.*

### **Amendment 6**

#### **Proposal for a regulation**

#### **Article 1 – point 2**

Regulation (EC) No 1098/2007

Article 5 – paragraph 1

#### *Text proposed by the Commission*

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

#### *Amendment*

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

### *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."

### *Justification*

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

## **Amendment 8**

### **Proposal for a regulation**

#### **Article 1 – point 3**

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.**

### *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 3**

Regulation (EC) No 1098/2007

Article 8 – paragraph 6 – subparagraph 1

*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 10 nautical miles measured from the**

***baselines. The immersion time of the said static gears shall not exceed 48 hours.***

*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 10**

**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation No 1098/2007

Article 26

*Text proposed by the Commission*

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.*"

*Amendment*

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.*

*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 11**

**Proposal for a regulation**  
**Article 1 – point 5**  
Regulation (EC) 1098/2007  
Article 27

*Text proposed by the Commission*

Article 27

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 disaccoring with the objectives of the management plan.***

*Amendment*

Article 27

***Where the Commission finds that the minimum fishing mortality rates given in Article 4 are no longer appropriate to achieve the objectives of the management plan, the Commission shall, on the basis of advice from STECF and after consulting the Baltic Sea Regional Advisory Council and relevant stakeholders, make a proposal, for adoption in accordance with the ordinary legislative procedure, for the revision of the target fishing mortality rates set out in Article 4.***

*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 12**

**Proposal for a regulation – amending act**  
**Article 1 – point 6**  
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***

*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***

*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)*

*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.

#### *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 exist.*

### **Amendment 13**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 6**

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 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)"*

#### *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 *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.

### *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 exist.*

### **Amendment 14**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 6**

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."

### *Justification*

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

### **Amendment 15**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 7**

Regulation No 1098/2007

Chapter VIa – Article 29 a – 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.*

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

*Justification*

*The empowerment of the Commission should be limited in time.*

**Amendment 16**

**Proposal for a regulation – amending act**

**Article 1 – point 7**

Regulation No 1098/2007

Chapter VIa – Article 29 a – 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 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.

*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 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.

*Justification*

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

**Amendment 17**

**Proposal for a regulation – amending act**

**Article 1 – point 7**

Regulation No 1098/2007

Chapter VI a – Article 29 b

*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.**

*Justification*

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

## PROCEDURE

<b>Title</b>	Amendment of 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	
<b>References</b>	COM(2012)0155 – C7-0090/2012 – 2012/0077(COD)	
<b>Date submitted to Parliament</b>	2.4.2012	
<b>Committee responsible</b> Date announced in plenary	PECH 18.4.2012	
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ENVI 18.4.2012	
<b>Not delivering opinions</b> Date of decision	ENVI 26.4.2012	
<b>Rapporteur(s)</b> Date appointed	Jarosław Leszek Wałęsa 24.4.2012	
<b>Discussed in committee</b>	31.5.2012	21.6.2012
<b>Date adopted</b>	28.11.2012	
<b>Result of final vote</b>	+: –: 0:	17 5 1
<b>Members present for the final vote</b>	Antonello Antinoro, Kriton Arsenis, Alain Cadec, Chris Davies, Carmen Fraga Estévez, Pat the Cope Gallagher, Dolores García-Hierro Caraballo, Marek Józef Gróbarczyk, Werner Kuhn, Isabella Lövin, Gabriel Mato Adrover, Guido Milana, Maria do Céu Patrão Neves, Crescenzo Rivellini, Ulrike Rodust, Raül Romeva i Rueda, Struan Stevenson, Isabelle Thomas, Nils Torvalds, Jarosław Leszek Wałęsa	
<b>Substitute(s) present for the final vote</b>	Jean-Paul Besset, Jens Nilsson, Nikolaos Salavrakos, Antolín Sánchez Presedo	
<b>Date tabled</b>	4.12.2012	