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Committee on Fisheries

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks

(COM(2012)0498 – C7-0290/2012 – 2012/0236(COD))

Committee on Fisheries

Rapporteur: Diane Dodds

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 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks (COM(2012)0498 – C7-0290/2012 – 2012/0236(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0498),
 - 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 (C7-0290/2012),
 - 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 13 December 2012¹,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A7-0000/2013),
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

Article 1 – point 1

Regulation (EC) No 1342/2008

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. For the purposes of this Regulation, the

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¹ Not yet published in the Official Journal.

fishing effort deployed by a group of vessels shall be calculated as the sum of the products of capacity-values in kW for each vessel and the number of days each vessel has been present within an area set out in Annex I. A day present within an area shall be any continuous period of 24 hours or part thereof during which a vessel is *present within the area and absent from port*.

fishing effort deployed by a group of vessels shall be calculated as the sum of the products of capacity-values in kW for each vessel and the number of days each vessel has been present within an area set out in Annex I. A day present within an area shall be any continuous period of 24 hours or part thereof during which a vessel *either is present within the area and absent from port or, as the case may be, has its fishing gear deployed within the area*.

Or. en

Justification

This amendment will allow development of alternative methods of accounting for time at sea (i.e. soak time for gill netters, etc.) that may better incentivise cod avoidance behaviour.

Amendment 2

Proposal for a regulation

Article 1 – point 1a (new)

Regulation (EC) No 1342/2008 Article 8 – paragraph 5a (new)

Text proposed by the Commission

Amendment

(1a) In Article 8, the following paragraph 5a is inserted:

'5a. Notwithstanding paragraphs 2, 3, 4 and 5, the Council may decide on an alternative TAC level when scientific advice indicates that that level would be more appropriate to meet the objectives of the plan.'

Or. en

Justification

This amendment would enable the Council to set a different TAC in instances where the stringent following of the Management Plan would move recovery away from the objectives of the plan, i.e., for North Sea cod in 2013 a 20% cut was advised following strict adherence to

the plan, despite ICES having noted a gradual improvement in stock and recognising in subsequent advice that this will only serve to increase discards, not reduce mortality.

Amendment 3

Proposal for a regulation

Article 1 – point 2

Regulation (EC) No 1342/2008

Article 9

Text proposed by the Commission

(2) Article 9 is replaced by the following:

‘Article 9

Special procedure for setting TACs

1. Where there is insufficient information to set the TACs in accordance with Article 7, the TACs for cod stocks in the Kattegat, the west of Scotland and the Irish Sea shall be set at a level indicated by scientific advice. However, if the level indicated by scientific advice is more than 20 % greater than the TACs in the previous year, they shall be set at a level 20% greater than the TACs in the previous year, or if the level indicated by scientific advice is more than 25 % less than the TACs in the previous year they shall be set at a level 25 % less than the TACs in the previous year.

2. Where there is insufficient information to set the TACs in accordance with paragraph 1, the TACs for cod stocks in the Kattegat, the west of Scotland and the Irish Sea shall be set at a level corresponding to:

(a) a 25 % reduction compared to the TAC in the previous year,

or, if scientific advice so recommends,

(b) a reduction not exceeding 25 %, compared to the TAC in the previous year, together with other appropriate measures.

Amendment

(2) Article 9 is replaced by the following:

‘Article 9

Special procedure for setting TACs

1. Where there is insufficient information to set the TACs in accordance with Article 7, the TACs for cod stocks in the Kattegat, the west of Scotland and the Irish Sea shall be set at a level indicated by scientific advice. However, if the level indicated by scientific advice is more than 20 % greater than the TACs in the previous year, they shall be set at a level 20% greater than the TACs in the previous year, or if the level indicated by scientific advice is more than 20 % less than the TACs in the previous year they shall be set at a level 20 % less than the TACs in the previous year.

2. By way of derogation from paragraph 1, where scientific advice indicates that there should be no directed fisheries and that

(i) by-catch should be minimised or reduced to the lowest possible level, and/or

(ii) the catches of cod should be reduced to the lowest possible level,

the Council may, decide not to apply annual adjustment to the total allowable catch in the subsequent year on condition

3. Where there is insufficient information to set the TACs in accordance with Article 8, the TACs for the cod stock in the North Sea, the Skagerrak and the eastern Channel shall be set by applying mutatis mutandis paragraphs 1 and 2 of this Article, unless consultations with Norway result in agreement on a different level of the TAC.’

that the TAC set is for by-catch only.

3. Where there is insufficient information to set the TACs in accordance with Article 8, the TACs for the cod stock in the North Sea, the Skagerrak and the eastern Channel shall be set by applying mutatis mutandis paragraphs 1 and 2 of this Article, unless consultations with Norway result in agreement on a different level of the TAC.’

Or. en

Justification

This amendment should help to avoid automatic reductions in the absence of reliable scientific information. The current provision was intended to apply in exceptional circumstances but has become a norm over time, which means that TACs for the areas covered by this Article have been reduced significantly and further automatic cuts would lead to the effective closure of the cod fisheries, increasing discards as a result. STEFC concluded that for the purposes of attaining the objectives of the cod plan it is more appropriate in some cases (i.e., in by-catch fisheries) to allow more flexibility to reflect the scientific advice on a case by case basis.

Amendment 4

Proposal for a regulation

Article 1 – point 4

Regulation (EC) No 1342/2008

Article 11a – paragraph 1– introductory phrase

Text proposed by the Commission

1. Fishing effort deployed by a vessel during a trip may be excluded by the Member States when counting the deployed effort against the maximum allowable fishing effort if:

Amendment

1. Vessels shall be exempt from fishing effort for so long as one of the following conditions is met:

Or. en

Justification

Partial exemption from effort would be appropriate in a mixed fisheries context where vessels often have quota to catch cod.

Amendment 5

Proposal for a regulation

Article 1 – point 4

Regulation (EC) No 1342/2008

Article 11a – paragraph 1 – point b

Text proposed by the Commission

(b) the entire fishing activity of that trip by the vessel concerned is carried out at a depth greater than **300 m**;

Amendment

(b) the entire fishing activity of that trip by the vessel concerned is carried out at a depth greater than **200 m or is carried out in the west of Scotland area to the west of line drawn by sequentially joining with rhumb lines the positions laid down in Annex IV measured according to the WGS84 coordinate system, provided that, in either case, the participating vessels are equipped with satellite-based vessel monitoring systems (VMS)**;

Or. en

Justification

There is no explanation as to why 300m was selected; it might well be that there has been some confusion between 300m and the depth vessels fish in the area described in Article 13(2)(d) which is approximately 200m.

Amendment 6

Proposal for a regulation

Article 1 – point 4

Regulation (EC) No 1342/2008

Article 11a – paragraph 2

Text proposed by the Commission

2. Based on the information provided by Member States pursuant to paragraph 3, and in accordance with scientific advice, the Council shall establish a list of areas outside cod-distribution and a list of gears

Amendment

2. Based on the information provided by Member States pursuant to paragraph 3, and in accordance with scientific advice, the Council shall establish a list of areas outside cod-distribution and a list of gears

the technical attributes of which result in cod catches of less than 1,5 % of the total catches measured by weight.

the technical attributes of which result in cod catches of less than 1,5 % of the total catches measured by weight. ***Once a gear or area, submitted by any one Member State, is approved by STEFC, it shall be possible for other Member States to use it.***

Or. en

Justification

Once STEFC approve a gear or area as described in paragraph 1 it should become available for use by all Members States. This would significantly speed up the current approval process where each Member State has to seek approval for the same gear to be used.

Amendment 7

Proposal for a regulation

Article 1 – point 4

Regulation (EC) No 1342/2008

Article 11b – paragraph 2

Text proposed by the Commission

2. Requests for the adjustment of the baseline referred to in paragraph 1 shall be submitted by Member States to the Commission by ***[within one year from adoption of this amendment - will be filled with concrete date].***

Amendment

2. Requests for the adjustment of the baseline referred to in paragraph 1 shall be submitted by Member States to the Commission by ***the 31 December of each year.***

Or. en

Justification

In order to ensure the continued innovation of gear selectivity the baseline should be altered annually.

Amendment 8

Proposal for a regulation

Article 1 – point 4

Regulation (EC) No 1342/2008

Article 11c – paragraph 2

Text proposed by the Commission

Amendment

2. When paragraph 1 is applied, Member States shall adjust the maximum allowable fishing effort set pursuant to Article 12(1) for the effort group concerned **by deducting an amount of effort equivalent to the amount of effort deployed by the participating vessel in the year before its exclusion from the fishing effort regime.**

2. When paragraph 1 is applied, Member States shall adjust the maximum allowable fishing effort set pursuant to Article 12(1) for the effort group concerned, **in accordance with the detailed rules that have already been adopted under Article 32 of this Regulation.**

Or. en

Justification

New Article 11c provided in the Commission proposal is to be welcomed as effort control is unnecessary in relation to vessels that participate in fully documented fisheries as all cod catches are counted against quota and fish mortality is fixed. However, instead should be recommended the reduction of effort baselines achieved in compliance with the arrangement now set out in Article 3(3) of Commission Regulation 237/2010, that is to say that 2004-06 (or 2005-07) baseline should be reduced by the amount that the participating vessels contributed during that period.

Amendment 9

Proposal for a regulation

Article 1 – point 4

Regulation (EC) No 1342/2008

Article 11c – paragraph 4

Text proposed by the Commission

Amendment

4. Transfers of cod quota to and from the vessels excluded from the fishing-effort regime in accordance with paragraph 1 shall be prohibited. **deleted**

Or. en

Justification

The risk related to discarding of cod by vessels not participating in trials of fully documented fisheries is only a theoretical one. There is no evidence that discards by the non-FDF fleet

have increased. Indeed it is the case that discards of North Sea fleet have declined during the period of implementation of the Cod Recovery Plan. The hypothesis advanced by the STECF is therefore not supported by presently available scientific evidence. Proposals should not be made in the absence of such evidence.

Amendment 10

Proposal for a regulation

Article 1 – point 5(a)

Regulation (EC) No 1342/2008

Article 12 – paragraph 4

Text proposed by the Commission

(a) Paragraph 4 is replaced by the following:

‘4. For aggregated effort groups where the percentage cumulative catch calculated according to paragraph 3(d) is equal to or exceeds 20 %, annual adjustments shall apply. The maximum allowable fishing effort of the groups concerned shall be calculated as follows:

(a) where Articles 7 or 8 apply, by applying to the baseline the same percentage adjustment as that set out in those Articles for fishing mortality;

(b) where **Article 9(1)** applies, by applying the same percentage adjustment in fishing effort as the adjustment of the TAC compared with the previous year;

(c) where Article 9(2) applies, by applying a reduction not exceeding 25 %, compared to the maximum allowable fishing-effort for the effort groups concerned in the previous year, together with other appropriate measures.

Amendment

(a) Paragraph 4 is replaced by the following:

‘4. For aggregated effort groups where the percentage cumulative catch calculated according to paragraph 3(d) is equal to or exceeds 20 %, annual adjustments shall apply. The maximum allowable fishing effort of the groups concerned shall be calculated as follows:

(a) where Articles 7 or 8 apply, by applying to the baseline the same percentage adjustment as that set out in those Articles for fishing mortality;

(b) where **Article 9** applies, by applying the same percentage adjustment in fishing effort as the adjustment of the TAC compared with the previous year;

Or. en

Justification

This amendment is necessary in order to ensure consistency following the above suggested

changes to Article 9.

EXPLANATORY STATEMENT

Decisions made by EU Fisheries Ministers on 18 December 2012 have the potential to make alignment of the Long Term Cod Plan the most controversial in this series of initiatives, as this is a matter that falls under the ordinary legislative procedure. As Parliament, and the Commission, have taken the Council to court over this decision, it would be superfluous to here further develop the arguments.

Regulation 1342/2008 establishing the Long Term Cod Plan was published on 18 December that year. The plan represented what was a dramatic step in efforts to rebuild cod stocks in northern waters of the EU. After 3 years of implementation it was reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF), which published their evaluation of multi-annual plans for cod in Irish Sea, Kattegat, North Sea, and West of Scotland following their July 2011 plenary meeting in Copenhagen. While accepting that after only 3 years of the plan's implementation it was premature to conclude on the plan's medium term impact, STECF did conclude: "...that the (current) plan is not delivering reduced F (fishing mortality) and additionally in many areas does not have stakeholders' support. A plan which stakeholders support is more likely to succeed because the stakeholders' actions are needed to contribute to its success. Support of the plan also should also, in theory, lead to their acceptance of responsibility to fulfil their obligations".

In deciding our course of action on amending the cod plan we must consider the views of the science, which as quoted from earlier is of the opinion that the existing plan has not delivered what was intended. Stakeholders would agree with this. The amendments to the Commission's proposal seek to deliver the goal of rebuilding cod stocks, while at the same time securing buy-in from stakeholders.

It is noted that the development of a new Long Term Plan for Cod stocks is regarded by many as a stop gap and the aim is to replace this plan with mixed-fisheries or multi-species plans, as the science for such plans develops. The adequacy of this science differs between areas and the timetable for moving to multi-species plans in all the areas covered by the Cod Plan remains vague. Therefore, an urgent need to progress and improve the existing plan remains.

A recent meeting between ICES and stakeholders recorded that after 70 years of increasing or stable fishing effort, the last 5-6 years has seen a decline. This is already contributing to an improved outlook for some cod stocks. While ICES states that overall mortality on cod stocks is reducing, there is an urgent need to reinforce this trend, whilst decoupling cod from those fisheries where cod is a minimal or non-existent catch.

The purpose of the amendments tabled to the Commission's proposal published on 12 September 2012 is to further reinforce the improvements already proposed by the Commission. Amendments 3 and 10 relate to Articles 9 and 12 of the Regulation.

The proposed amendments seek to reinforce and extend co-operation between fisheries scientists and the industry. We have already witnessed successful projects in several fisheries where cod are a factor. These seek to reduce cod catches and reduce discards, while retaining sustainable catches of target species. This represents a win/win for all concerned.

In particular reference is made to Amendment 6. It is logical that where one Member State has through the STECF process identified an area or gear the attributes of which result in cod catches of less than 1.5 percent then the option of this area or gear should be extended to other Member States involved in the same fishery, thus simplifying the process for all involved.

In respect of measuring cod by-catches as a percentage, the Rapporteur is aware of the sentiment that states such an approach is flawed. Unfortunately, no alternative has been presented by the scientific community, which would secure the goal of incentivising minimal cod by-catches in mixed-fisheries situations.

Related to this is the interpretation of the existing Regulation by some Member States. In discussions with the Commission they advise that flexibility exists within the Regulation that permits vessels to deploy gears approved by STECF for an exemption from effort controls when this gear is deployed for either one day or a management period extending up to 12 months. This flexibility is important in encouraging vessels to deploy such gears. There are cases where this flexibility has not been recognised or utilised. It is important to make such intentions explicit.

Dealing with Amendments 8 and 9 in respect of Fully Documented Fisheries. Where such projects have been trialled they have been successful. Therefore the option to pursue such initiatives and variations of them should be encouraged.

This report has been work in progress and again seeks to further improve upon this Regulation and in doing so secure and attain the goal the Regulation aspires to.