In 2012, the Council decided on a number of measures amending a fisheries management plan covering several stocks of cod in European seas. This Council-only regulation was annulled by the Court of Justice, and the European Parliament is now to adopt a new regulation, founded on the appropriate 'co-decision' legal basis, in order to adjust this fisheries management plan.

**Institutional and policy background**

After the entry into force of the Lisbon Treaty in 2009, legislative proposals to revise or to establish multiannual plans for fisheries management became, for several years, the subject of difficult or even blocked negotiations. This was due to diverging views between the European Parliament and the Council on their respective institutional powers set under Article 43(2) and Article 43(3) **TFEU** concerning the Common Fisheries Policy (CFP). In 2012, the Council decided to adopt on its own – by changing the legal basis – an amending regulation (No 1243/2012) to an existing management plan covering cod stocks established under Regulation No 1342/2008. However, the European Court of Justice subsequently ruled in favour of the Parliament and the Commission regarding their complaints lodged against this Council decision (joined cases C-124/13 and C-125/13). In its ruling of December 2015, the Court annulled the Council amending Regulation concerned (No 1243/2012), considering that it should have been adopted under the ordinary legislative procedure. Nevertheless, the Court decided to maintain the effects of this 2012 regulation until the entry into force, within a reasonable period – i.e., not later than the end of 2016 – of a new regulation, to be adopted on the appropriate legal basis.

Meanwhile, through the 2013 reform of the CFP, the EP and the Council established new principles for fisheries management and set the basis for a new generation of fisheries multiannual plans. After the adoption, in July 2016, of the first post-CFP-reform multiannual plan, which covers the Baltic Sea, the Commission presented a proposal for another multiannual plan for the North Sea in August 2016. This new plan would cover, among others, the North Sea cod stock currently within the scope of the multiannual plan set out by Regulation 1342/2008, which would be repealed once the future North Sea plan enters into force.

**The new amending regulation**

The Court judgement on Regulation No 1243/2012 led to the reopening of interinstitutional negotiations on the basis of the initial procedure file (2012/0236(COD)), on which the European Parliament adopted its first reading position in June 2013. In trilogue negotiations, the Council and the EP agreed that the new regulation to 'replace' the annulled Council regulation would not be about a simple continuation of the measures maintained by the Court until the end of 2016. Pending any possible future decision for repeal and broader replacement, this existing plan for four cod stocks would be aligned with the CFP reform, notably in terms of definitions and objectives. The current rules framing the annual setting of maximum catch limits by the Council would be replaced by an obligation to respect a precautionary approach, accompanied by a system of fishing authorisations and fishing capacity ceilings. Also, building on a measure proposed as part of the North Sea multiannual plan draft regulation, the compromise text would immediately put an end to the fishing effort (days-at-sea) regime currently applicable to these cod fisheries.

Following the resumption of negotiations on the proposal to amend the multiannual management plan for cod stocks according to the normal legislative procedure (file 2012/0236(COD)), the Council adopted its first reading position on 30 September 2016, based on the trilogue compromise reached end of June 2016 (rapporteur Diane Dodds, NI, United Kingdom). Following the Committee on Fisheries endorsement of the Council position on 9 November 2016, the European Parliament is now due to vote, with a view to an early second reading adoption, on this new amending regulation on the cod fisheries plan.